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FROM THE BEQUEST OF
SAMUEL SHAPLEIGH
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LORD [illegible]N, THE MIMIC.

Robert Cullen the son of the celebrated physician, and who finally officiated as a judge in the court of session, possessed amazing powers of mimicry, which were manifested in his earliest years. One evening, when his father was going to the theatre, he entreated to be taken along with him, but for some reason was condemned to remain at home. Some time after the departure of the doctor, Mrs. Cullen heard him come along the passage, as if from his own room, and say at her door, "Well, after all, you may let Robert go." Robert was accordingly allowed to depart for the theatre, where his appearance gave no small surprise to his father. On the old gentleman coming home, and remonstrating with his lady for allowing the boy to go, it was discovered that the voice which seemed to give permission had proceeded from the young wag himself.

In maturer years Cullen could not only mimic any voice or mode of speech, but enter so thoroughly into the nature of any man, that he could supply exactly the ideas which he was likely to use. His imitations were therefore something much above mimicries—they were Shakspearian representations of human character. He has been known, in a social company, where another individual was expected, to stand up in the character of that person, and return thanks for the proposal of his health; and this was done so happily, that when the individual did arrive, and got upon his legs to speak for himself, the company was convulsed with an almost exact repetition of what Cullen had previously uttered, the manner also, and every inflection of the voice being alike. In relating anecdotes, of which he possessed a vast store, he usually prefaced them with a sketch of the character of the person referred to, which greatly increased the effect, as the story then told characteristically. These sketches were remarked to be extremely graphic, and most elegantly expressed.

When a young man, residing with his father, he was very intimate with Dr Robertson, the principal of the University, and the celebrated author of the life of Charles V. To show that Robertson was ill to imitate, it may be mentioned, from the report of a gentleman who has often heard him making public orations, that when the students observed him pause for a word, and would themselves mentally supply it, they invariably found that the word which he did use was different from that which they thought suitable. Cullen, however, could imitate him to the life, either in his more formal speeches or in his ordinary discourse. He would often, in entering a house which the Principal was in the habit of visiting, assume his voice in the lobby and stair, and when arrived at the drawing room door, astonish the family by turning out to be—only Bob Cullen.

Lord Greville, a pupil of the Principal's [illegible]

THE

COURT OF SESSION

GARLAND.

Edited by
James Maidment

There's rosemary, that's for remembrance; pray you, love, remember: and there is pansies, that's for thoughts. . . . . .

There's fennel for you, and columbines:—there's rue for you; and here's some for me.

HAMLET.

Part I.

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NOTICE.

TO those persons who are familiar with the Parliament House,—the Westminster Hall of Scotland,—and its inmates, the various Pieces collected together in this volume cannot be devoid of interest. Even to those not initiated in the mysteries of legal procedure, a considerable portion of the contents will, it is hoped, be attractive; for no genuine votary of Momus can be insensible to the fun of the Justiciary Opera,—the drollery of the Diamond Beetle Case,—the exquisite point of the Parody on Hellvellyn,—the satirical wit of the Chronicles of the City, and the quiet humour of the *Scotish* Royal Speeches.

As many passages required explanation, illustrative Notes have been given, and some few Anecdotes are introduced, the greater part of which, if not the whole, have never previously been published:—they were almost all taken from individuals connected either as practitioners or suiters with the Court of Session, many years since; and are,—at the least the Editor ventures to think so,—worthy of preservation, as exceedingly characteristic of the parties alluded to, and the times in which they lived.

Although so few years, comparatively speaking,

have elapsed, since the persons of whom traits have been preserved, have quitted this sublunary scene,—and although many of them attained no inconsiderable degree of celebrity in their lifetime, it has been found, in many instances, a matter of some difficulty to obtain satisfactory information relative to them. Sometimes, too, the same story is told of different persons; thus some versions of the anecdote at page 52, represent the late Bayn Whyt, Esq. W. S. as the mischievous person who tormented the worthy Baronet, by making faces at him;—it is not very material whether the Barrister, or the Writer to the Signet, was the offending party, if the rest be true,—and that such a scene did actually take place cannot reasonably be doubted; for, besides the distinct recollection of an old gentleman on the subject, who died some years since, and from whom the story was first obtained, there are still surviving, various persons who, although not present, have heard the circumstances detailed, and who received them as perfectly genuine, shortly after the time when they are alleged to have taken place.

The Editor has been informed, that the Competition between the Lakes, was written in imitation of the style in which the late Robert Craigie, Esq.*

* Mr. Craigie, Son of John Craigie, Esq. of Kilgraston, was admitted a member of the Faculty of Advocates in 1776. After

(afterwards Lord Craigie,) and John Burnet, Esq. used to prepare their reports for the Faculty Collection of Decisions.

having been several years Sheriff-depute for Dumfriesshire, he was raised to the bench in 1811. Upon his demise in 1834, he was succeeded by Lord Cockburn. Lord Craigie was a very sound Lawyer, and his opinion in feudal matters was entitled to great consideration and respect. He was opposed to the judgment of his brethren in the great Bargany cause; and his speech, which will be found in the books of reports, may be perused with much advantage. Lord Eldon was much inclined to concur in it, and it is well known that the judgment was affirmed in deference to the great majority of the Scotish Judges.

For some reason or other Lord Craigie was in no favour with the late eccentric John Clerk, (Lord Eldin,) who treated him with much disrespect.—Perhaps this feeling of hostility might have arisen from their having been opposed to each other in the Roxburghe cause; and as Mr. Clerk was deeply interested for General Kerr, he might be somewhat nettled at the success of Mr. Craigie, who was one of the leading counsel for his opponent;—more especially as John's decided opinion was, that the judgment, both of the Court of Session and House of Lords, was erroneous. Notwithstanding the provocation continually given, Lord Craigie never lost his temper. His Lordship was a very bad speaker, and he delivered his remarks from the bench in such a disjointed and imperfect manner, that sometimes they were not very intelligible; this, it is believed, is the true reason why his merits as a lawyer were not properly estimated.

On the bench he was invariably kind to the members of the bar: there was no attempt to browbeat; on the contrary, he did every thing to encourage the timid youthful lawyer. He had no favourites—all counsel were treated alike; and on no occasion did he ever utter one syllable to hurt the feelings of the pleader. When he had occasion to reprove, he uniformly did so as a gentleman. In private life he was much and deservedly esteemed,—in a word, a kinder man or more worthy citizen never breathed than Robert Craigie.

The Editor, in concluding, has to return his very best thanks to those Gentlemen who have so obligingly furnished him with many piquant ingredients for this *olla podrida*, and he begs to assure them it will be very much owing to their kindness in heightening the flavour, if the dish should be deemed worthy of the palates of those literary and legal *gourmets*, for whose gratification it has been chiefly prepared.

COURT OF SESSION GARLAND.

I.

ANECDOTES OF THE EARLY ADMINISTRATION OF JUSTICE IN SCOTLAND.

These Anecdotes formed the subject of an article communicated some years ago by the Editor of the present Volume to the Edinburgh Law Journal, a Periodical Work now consigned to the tomb of the Capulets, from whence it has been disinterred, and with various alterations and additions, has been prefixed as a suitable introduction to this Collection of Pieces, chiefly satirical, connected with the College of Justice and its Members. Of the truth of the charges brought against the early administration of justice in this country, there can be no reasonable doubt,—for setting aside the strong presumption arising from the mass of evidence referred to,—the Act of Parliament 1597,—the Acts of Sederunt 1677-1679 and 1690,—the concurring and positive testimony of Buchanan,—of Johnston,—of Fountainhall,—of Balcarras, are too strong to be overturned. That there may have been, and probably were, honest men occasionally on the bench, may be true, but in those days dishonesty seems to have been the rule, and honesty the exception.

It may be doubted if, in any country, not even excepting France prior to the revolution, there can be found more direct or positive instances of judicial corruption, than may be traced in the annals of Scotish Jurisprudence. Indeed, from the institution of the College of Justice down to a comparatively recent date, hardly any one period can be pointed out, as altogether free from taint.

Nor is it wonderful that the administration of justice should have been thus polluted; for, however national vanity may attempt to disguise the fact, there is no doubt that Scotland,

while a separate Kingdom, had little pretension to be considered in the light of a civilized state. Her nobles were turbulent, unprincipled, and sanguinary,—her statesmen (with few exceptions) were generally influenced by any other motives than the good of their country,—the lesser barons were semibarbarous, and the peasantry, especially in the Highland districts, almost entirely so. If any person is inclined to suppose this picture overcharged, a reference to Mr. Pitcairn's Criminal Trials—a singularly curious and valuable work—will remove all his doubts.*

Even the clergy were not altogether unaffected by the state of society in which they were placed. They partook too much of the stern spirit of the age; and it is melancholy to reflect, that even our venerable Reformer has spoken complacently of the murder of Cardinal Beaton,—thus inferentially, if not directly, affording his high sanction to that most detestable of all maxims, that "the end justifies the means." It would have been, therefore, somewhat surprising if the judges should have been the only portion of the community uninjured by the pestilential atmosphere which they were inhaling.

At no distant interval from the institution of the College of Justice, the judges had become obnoxious; and Buchanan has recorded his opinion of the tyrannical exercise of their powers in the following striking terms:—"Omnium civium "bona quindecim hominum arbitrio sunt commissa, quibus "et perpetua est potestas, et imperium plane tyranicum: "quippe quorum arbitria sola sunt pro legibus."†

The result of this exclusive arbitrary power may be anticipated. Subject to no control, the law was expounded by the judges in the way best suited to further their own purposes, and they gradually became so corrupt, that the legislature interfered; and in the year 1579, an Act was passed prohibiting them,

* In truth, James the Sixth, whom it has been the fashion to ridicule as an empty pedant, was the first of the Stewarts who really benefited the Kingdom, by gradually depressing an unprincipled Aristocracy.

† Rerum Scoticarum Historia, f. 501. Ultrajecti 1668. 8vo.

" be thame selffis or be thair wiffis or seruandes, (to) tak, in " ony time cuming, *buddis, brybes, guides or geir* fra quhat- " sumever persone or persons presentlie havand, or that " heirefter sall happyne to have, *any actionis or caussis* " *persewit befoir thaime*, aither fra the persewer or defen- " der," under pain of confiscation.

This enactment seems to have had little effect, as we find eighteen years afterwards that the judges were just as bad as ever; for Johnston, an historian of veracity, states :*—" Hac " tempestate (1597) totus ordo judicum, paucorum impro- " bitate, et audacia, infamatus. Inveteravit tum opinio, et " omnium sermone percrebuit, pecuniosum hominem, nemi- " nem potuisse causa cadere. Alexander Regius,† Advo- " catus acer, ut vehemens, illam labem et ignominiam ordinis " callide observans, a clientibus suis pecuniam accepit: quam " corruptis judicibus, pro suffragiis divideret. Hæc et similia " in causa fuere, ut totus ordo gravi diuturnaque infamia " laboraret."

During the time the bench was dignified by the presence of the Earl of Melros, (afterwards Haddington,) who for many years held the high office of Lord President, some check was put upon the venality of the Judges; but even under his Lordship's vigorous rule it was not wholly put down. Indeed many things might be instanced not exactly suited to our notions of judicial decorum. Thus we have the Lord Chancellor ‡ superintending the law-suits of a friend, and writing to him the way and manner in which he proposed they should be conducted. § It has been said, and although there does not seem to be

* Johnstoni Historia, p. 231. Amst. 1615, folio.

† Alexander King was Judge of the Admiralty Court, and author of a treatise in Latin, still unpublished, upon Naval Laws and Customs: there is a MS. copy of it (A. 2. 16.) in the Library of the Faculty of Advocates; and judging from a cursory examination, it appears a book of considerable value, and one which may very beneficially be consulted.

‡ Sir Alexander Seton, Earl of Dunfermline.

§ Letters and State Papers of the reign of James VI. Edin. 1838, 4to, privately printed for the Abbotsford Club.

sufficient authority for assuming the fact, it is far from improbable, that during the usurpation, the laws were righteously and efficiently administered, and that the English judges, free from local prejudices, and uninfluenced by private feelings, determined the variety of cases coming before them, in such a way as to give universal satisfaction.

An anecdote has been preserved on this subject. Some one had been lauding to Lord President Gilmour the extreme impartiality of the English judges, and the general equity of their proceedings, "Deil speed them," angrily exclaimed his Lordship, "they had neither kith nor kin."

The restoration brought back with it the evils, though perhaps modified, of the olden time: open bribery was no longer practised, but private influence still flourished in all its pristine vigour. The judges were publicly tampered with, and the nuisance became so intolerable, that they endeavoured to repress it, by passing an act of sederunt,* which was renewed a couple of years afterwards, but which does not appear to have received much attention, either from the judges or the suitors, as, upon the 11th November 1690, their Lordships engaged, "*upon their honours*, to observe the conditions "of the previous acts." A strange engagement truly, and one which pretty clearly demonstrates, to use a legal phrase, that their Lordships' enactments on this subject were not *in viridi observantia*. It may here be observed, that by the act last noticed, it was ordained that this judicial pledge, not to listen to solicitations of any kind, was to be renewed each Session.

Although this apparent desire of the judges to put down solicitation might induce a belief of its perfect sincerity, it unfortunately happened that their Lordships' practice was not exactly in accordance with their professions. Unquestionably general solicitation was at a discount, but the evil still continued, in a different shape. Each judge had, what was termed, his "peat" or favourite, through whom interest was

* 6th November 1677.

made, and, of course, it was not to be expected that the "peat" should deal with his patron without receiving a suitable remuneration. This office seems not to have been considered disreputable, for, if we may believe a popular rhyme made upon the influential and prosperous family of Melville, the younger sons of the Nobility thought it no degradation to accept so lucrative an office. The rhyme runs thus,—

"Three brave sons, and all gallant Statesmen,
"There's crooked son, and wicked son, the third son is a pate man,
"And if your purse be full enough, it will end all debate man.

The "crooked" son was Alexander, Lord Raith, the heir-apparent of George, fourth Lord and first Earl of Melville; the "wicked" son was David, third Earl of Leven and second Earl of Melville; and the "pate" or peat was James Melville of Balgarvie.

It might be conjectured that the word peat was intended for pet, but, if we may refer to the somewhat questionable authority of the North Briton,* "Peat" was a contraction for Patrick, and the adoption of it arose in this way:—

"In the Court of Session, as at Paris, it is usual for persons "at law with each other, to go about, (like so many candi-"dates at an election), soliciting the votes and interest of the "judges, who [the judges] are each attended by a PAT and "a SECRETARY; the first of which it is absolutely necessary to "consult, and the latter to treat with. When you are inform-"ed of the origin of PATSHIP, you will readily guess the na-"ture of the office. One of the former judges of that Court, "of the first character, knowledge, and application to business, "had a son at the bar, whose name was *Patrick*, and when "the suitors came about soliciting his favour, his question was, "Have you consulted *Pat*?" If the answer was affirmative, "the usual reply of his Lordship was, 'I'll enquire of *Pat* "'about it, I'll take care of your cause. Go home and mind

* No. 62, Sep. 17, 1763.

"'your business.' This judge, in that case, was even as "good as his word, for while his brother judges were robing, "he would tell them what pains his son had taken, and what "trouble he had put himself to, by his directions, in order to "find out the real circumstances of the dispute, and as no one "on the bench would be so unmannerly as to question the "veracity of the son, or the judgment of the father, the de-"cree always went according to the information of *Pat.* At "the present æra, in case a judge has no son at the bar, his "nearest relation, (and he is sure to have one there), officiates "in that station. But, as it frequently happens, if there are "*Pats* employed on each side, the judges differ, and the greatest "'*interest*, (*i. e.* the longest *purse*), is sure to carry it.' Whatever may be the true derivation of the name, there can be no doubt that a set of individuals did exist who dealt with the judges for money, and who were usually denominated "Peats."

There has been preserved a Satire,* entitled "Robert "Cook's Petition to the Lords of Session against the Peats," from which, as containing a tolerably humorous catalogue of the "peats," a few extracts will not be out of place. The writer, after stating

"That he's likely to starve unless made a peat,"

wishes to know

"Whose peat he must be:
"The President's † he cannot, because he has three.
"And for my Lord Hatton, ‡ his sone now Sir John,
"By all is declared to be peattie patron.
"It's true, my Lord Register || at first did appear
"A vacant place to have, but your petitioner doth fear,
"For noe other end did his brother of late
"His ensign's place sell, but to be made a peat;

* Scottish Pasquils, Vol. ii. p. 29. In a MS. we have seen, the Petitioner is represented as Robert Cook, Advocate.

† Sir James Dalrymple, Viscount of Stairs.

‡ Mr. Charles Maitland, afterwards Earl of Lauderdale.

|| Sir Archibald Primrose.

"Though be the mock faculty, ignorance should him cast,
"Yet a bill (with he's my brother) will him in bring at last.
"Old Nevoy* by all is judged such a sott,
"That his Peatship could ne'er be thought worth a groat.
"Yet John Hay of Murie, his peaty as I hear,
"By virtue of his daughter, makes thousands a-year.
"Newbyth† hertofor went snips with the peats,
"Bot having discovered them all to be cheats,
"Resolves for the future his sone Willie Baird
"Should be peat for his house as well as young laird.
"My Lord Newton,‡ a body that gladly would live,
"Is ready to take whate'er men would give,
"Who wisely considers when peat to himself,
"He avoyds all danger in parting the pelf."

He then concludes his petition with craving

"To be a peat to some peat,
"Or in Pittenweem's language to make his peat's meat."

Their Lordships are next represented as remitting the application to Lord Castlehill, who, it would appear, was no great favourer of the system, as he upon

"—— Considering the supplicatione,
"Declares that the peats are grievous to the nation;
"They plead without speaking, consult without wryting,
"And this they doe by some inspiratione;
"And now they have found out a new way of flyting,
"Which they doe call solicitatione.§

* Sir David Nevoy. He was promoted to the bench, June 25, 1661, and retained his office for upwards of twenty-two years. Lord Hailes mentions he had been a Professor in St. Leonard's College, St. Andrews. At his first admission he was termed Lord Reidie.

† Sir John Baird, made a Judge Nov. 4, 1664.

‡ Sir David Falconer.

§ In a MS. poem entitled a "Castlehill Rencounter," (Anno 1700) the Author, referring to various persons he met there, says,

"Three Judges walking with their peats I found
"Th' allowed bribes, which justice doth confound,
"A corrupt age! Their cause who to promote,
"Employ the son to get the father's vote."

This abuse was strictly in keeping with the constitution of the Court. The judges were selected, not on account of their qualifications for office, but because their subserviency rendered their appointment useful to their patrons; men of probity and honour were carefully excluded, and the law thus administered became the engine of tyranny and oppression, and those in power in this way had the means of enriching themselves at the expense of their neighbours. It was therefore a matter of importance to get the control of the Session, and numerous instances may be found in the records of the period, of attempts, sometimes successful, sometimes the reverse, to procure such ascendancy. Lord Balcarras, a keen jacobite, and a person not very likely to give a too highly coloured description of the practices of the time, in speaking of the Duke of Hamilton, observes: "He (the "Duke) had no design but the ruin of the Lord Melvil and "Lord Stair, *and to get the Session filled with his own "creatures, having at that time many lawsuits in hand.*"

The purity of the administration of justice may be further illustrated by the following anecdote, which is better authenticated than usually happens, inasmuch as Dr. Abercromby, a gentleman of great respectability, heard it related by the Earl of Rochester, one of the parties concerned, to the Honourable Robert Boyle:—

"A Scotch gentleman having entreated the Earl of Ro-"chester to speak to the Duke of Lauderdale upon the account "of a business that seemed to be supported by a clear and un-"doubted right, his Lordship very obligingly promised to do "his utmost endeavours to engage the Duke to stand his "friend in a concern so just and so reasonable as his was; and "accordingly, having conferred with his Grace about the mat-"ter, the Duke made him this very odd return, that though "he question'd not the right of the gentleman he recommended "to him, yet he could not promise him an helping hand, and "far less success in business, if he knew not first the man, "whom perhaps his Lordship had some reason to conceal, be-

"cause, said he to the Earl, 'if your Lordship were as well "'acquainted with the customs of Scotland as I am, you had "'undoubtedly known this among others: *Show me the man,* "'*and I shall show you the law,*' giving him to understand "that the law in Scotland could protect no man, if either his "purse were empty or his adversaries great men, or supported "by great ones."*

Amongst other evils of those days, was one arising from the right of the Lord President to call cases not according to any fixed order of enrolment but as suited his own pleasure;—thus, when there was a purpose to serve, and when some of the judges who might be opposed to the President's views were absent, either attending their outer-house duty or otherwise engaged, a particular case was called and decided. To correct this flagrant abuse, an Act of Parliament† had been passed, ordering, that every cause to be heard in the Inner-House should be enrolled and called, according to the date of its registration; and declaring, that any decision pronounced in any cause out of the proper order, should go for nothing. Notwithstanding this enactment, the disgraceful practice continued, of calling cases at the option of the presiding judge, until the elevation of Duncan Forbes to that high office.‡

It was in consequence of a manœuvre of this kind that an attempt was made to controul the Court by an Appeal to Parliament. In a law-suit between the Earls of Dunfermline and Callender, Lauderdale, who was an extraordinary Lord of Session, favoured one of the parties, and resolved to influence the decision of the judges by his voice and presence. The President, Sir James Dalrymple, afterwards Viscount Stair, an illustrious name in the annals of Scotish Jurisprudence, we regret to admit, lent himself to

* A Moral Discourse on the Power of Interest, by David Abercromby, M. D. London, 1691. P. 60.

† 1672, cap. 16, § 5-12.

‡ Laing's Scotland, vol. 4, p. 416. Lond. 1819, 8vo.

his Grace's measures, and in defiance of the recent Statute, called the cause out of its regular order. The result was, of course, favourable to the Duke's protegee; and Lord Callender (then Lord Almond) entered an Appeal to the Scotish Parliament,—a step of considerable boldness and doubtful competency, but which met with support from many of the leading lawyers of the time, including Lockhart and Mackenzie.

The President and some of his creatures took alarm at this decisive measure; and, from the influence they possessed at Court, induced Charles II. and his ministers to suppose that this step was a most factious and dangerous proceeding, on the part of a few only of the Faculty of Advocates. Upon this, a letter came down, dated 19th May 1674, declaring his Majesty's extreme "dissatisfaction and abhorrence" of appeals, and prohibiting all Members of the College of Justice from sanctioning or countenancing them in future.*

The Marquis of Huntly, on behalf of the Earl of Aboyne, his nephew, followed Lord Callender's example, by entering an appeal in a cause in which his ward had been unsuccessful, but this appeal, as well as the preceding one, was annulled by the letter before alluded to. Lord Fountainhall, in his unpublished manuscripts, gives the following account of what subsequently took place in the later case. "When the "Marquis returned from the French camp, my Lord Lau-"derdale persuaded him judicially to compear before the "Lords of Session, and take up his appeal, and declare he "passed from it, and which he did on the 26th of January "1675, and then promised him not only a new hearing, but "gave him some insinuations to hope a redress. Yet, after "a second debate, they adhered to their former interlocutor, "and so he was either ill or well served for his complimenting "them; but the times were such, as no rational man could "expect an alteration from them, of what had escaped from

* Acts of Sederunt, p. 114.

"them, though unawares: they blushed to confess what is "incident to humanity itself (nam humanum est errare), "where their honour was once engaged at the stake."*

His Majesty's letter did not produce the result anticipated. The advocates still continued refractory, and an open rupture with the Court was the consequence. It is remarkable, that in the number of malcontents the names of Sir George Lockhart, afterwards President, and Sir George Mackenzie, Lord Advocate, are to be found. The refractory barristers continued long obstinate, one portion of them residing at Haddington, under Sir George Lockhart as their leader, and another proceeding to Linlithgow, under the auspices of Sir John Cunningham.

This dispute amongst the lawyers gave rise to a variety of pasquinades, some of which have been preserved. The following parody, upon a well-known song of the time, entitled "I like my humour well, boys," is amusing enough:

"The President with his head on one side,†
"He swears that for treason we all shall be tryed;
"We tell him 'twas not so with Chancellor Hyde.
"And I like my humour weill, boyes,
"And I like my humour weill.

"The President bids us repent of our sin,
"And swears we'll be forfault if we don't come in;
"We answer him all, We care not a pin.
"And I like my humour weill, boyes,
"And I like humour weill."

* Kirkton's Church History, p. 347. Scottish Pasquils, vol. ii, p. 15-16.

† Lord Stair's head, either from accident or disease, was on one side, and afforded to his enemies, and he had no small number, a never-failing subject of ridicule. Thus the "Satire on the family of Stairs" (Scottish Pasquils, vol. 1, p. 48) commences:

"Stair's neck, mynd, wife, son, grandson, and the rest,
"Are wry, false, witch, pets, parricid possest:
"Curst be the cause of Scotland's constant woe,
"That hinders justice in even paths to go."

A Parody on "Farewell, fair Armida,"* is perhaps a bett specimen of the legal wit of the time.—

1

Farewell Craigie Wallace,† the cause of my grief,
In vain have I loved you, but found no relief;
Undone by your letters‡ so strict and severe,
You make but bad use of his Majesty's ear.

2

Now prompted by hatred, we know your intent
Is to dissolve us like the Parliament;
But we know, tho' we languish, in two months delay,
We shall all be restored on Martinmas day.

3

On hills and in vallies, midst paitricks§ and hares,
We'll sport, or we pleed in perpetuall fears.
The death-wounds ye gave us, our clients do know,
Who swear had they known it, it should not be soe.

4

But if some kind friend to our Prince should convey,
And laugh at our solitude when we're away;
The barres in each house, when ye empty shall see,
You'll say with a sigh, 'twas occasioned by me.

ANSWER.

1

Blame not Craigie Wallace, nor call him your grief,
It was Stairs, and not he, that denied you relief;
Abuse not his letter, nor call him severe,
Who never, God knows, had his Majesty's ear.

* By Dryden.
† Sir Thomas Wallace of Craigie, Lord President.
‡ Letter from Charles the II, dated 19th May 1674, disapproving of Appeals to Parliament.
§ Partridges.

2

It's true ye may think, that we were not content,
When from us ye appealed to the Parliament;
But we grieve when we think your gown should defray
The expense of your folly on Martinmas day.

3

To hills or to vallies that ye will repair,
It seems of our favour ye mean to despair;
Of your joint resolution we daily do hear,
Yet grieve we to think that it cost you so dear.

4

But if male-contents to our Prince should convey,
And show we are useless when you are away,
We'l laugh at your fate, which ye would not prevent,
And bid you appeal to the Parliament.

The following clever but coarse address "to the Advocates who stayed behind," is sufficiently bitter,—

As when the generous wines drawn off and gone,
The dregs in puncheon a —— remain alone;
And when the Lion's dead, base maggots breed
Upon his rump, and then do sweetly feed;—
Even so, of Advocates you're but the rump,
That noble Faculty's turn'd to a stump;
And so Dundonald does you much command,
Because you are the Faculty's wrong end.
But since a Rumple* President does sit,
That rumps at bar, should domineer was fit.
Yet where the taill is thus in the head's place,
No doubt, the body has a s——n face.
Thus, thus, some men reform our laws and gown,
As Taylors doe by turning upsyde down.

* A play upon Lord Stair's family name of Dalrymple, which was pronounced as if spelt with an *u* instead of a *y*.

In due season the advocates were compelled to bend to the powers that were, and after having been contumacious for considerably more than twelve months, upon making proper submission, they were, upon the 25th January 1676, re-admitted to practice. But the triumph of the Judges was not of long duration; for the Peers and members of Parliament began to see that appeals might be turned to good account, and they probably thought that there was no reason why the judges should have a monopoly of judicial patronage and plunder. Appeals were encouraged, and in a very short time became common enough.

It may be here not out of place to turn to another tribunal where justice was administered on a similar scale. The Scotish Privy Council, which possessed a pretty extensive jurisdiction, was proverbial for its venality and rapacity. Lord Fountainhall records a somewhat amusing instance of the manner in which this *honourable* Court exerted its powers to serve particular purposes. John eighth Lord Elphinstone was debtor by bond to William Forbes of Tolquhan in the sum of 10,000 merks, which he was not very willing, or rather perhaps, was unable to repay. Luckily for him, Forbes, who was a man of a somewhat irritable temperament, quarrelled with his clergyman, Mr. John Strauchan, and, in the heat of the moment, gave him "a cuff." Such a chance as this did not escape the vigilance of the debtor. Forbes was cited before the Privy Council, where, after the fashion of a modern election committee, the result had been already settled, and he was adjudged to pay a fine of 10,000 merks to the Crown, five hundred merks to Mr. Strauchan, and four dollars to every witness adduced against him, and the better to enforce implement of the sentence, he was ordered to be imprisoned till he had obeyed it. Elphinstone had previously arranged that he was to get the fine, and as it was the precise sum in which he was indebted to Forbes, he was thus enabled to pay his debt without putting his hand into his pockets at all. Fountainhall candidly informs us

that all this "was only done to pay a bond of the like sum "which he had of my Lord Elphinstone, who has got a right "to the fine."

Lord Fountainhall in his Chronological Notes, p. 247, refers to a lawsuit between Mr. Robert Pittilloch, advocate,* and Mr. Aytoun of Inchdairnie, the son-in-law of Lord Harcarse, one of the judges, in which the former did not hesitate to call the learned lord "a bryber," for which he (Pittilloch) was apprehended. Harcarse was removed the ensuing day from the bench, and it does not seem that any thing was done to his opponent, who published an account of the whole proceedings under the following singular title:—"Oppression "under the Colour of Law; or, My Lord Harcarse his new "Praticks: As a way-marke for peaceable subjects to beware "of pleying with a hot-spirited Lord of Session, so far as is "possible when arbitrarie Government is in the Dominion. "—Proverbs xx, verse 21, An inheritance may be gotten "hastily at the beginning, but the end thereof shall not be "blessed."† The author did not venture to print this violent attack in Edinburgh, and accordingly it bears the imprint of London 1689.

Of course it would be unfair to take a narrative of this description prepared by the party aggrieved, as evidence of the corrupt practices of Lord Harcarse. It is too probable, however, that the accusation was not without some foundation; for laying aside entirely the "habite and repute" character of the judges, it is remarkable that Fountainhall, while alluding to the lawsuit and the accusation, neither states the latter to be false, nor ventures in his decisions to report the former. There is, besides, one fact mentioned in the pamphlet, which, if true, is somewhat startling, namely, that when the cause was called by Lord Drumcairn, who was the Or-

* This gentleman, during the usurpation, was Solicitor-General to the Protector, a circumstance which would not tend to his advantage at the restoration.

† P. 19. A few copies of this legal curiosity were reprinted. Stevenson, 1827. Quarto.

dinary, "my Lord Harcarse compeared with his Purple "Gown, and debated the case as Inchdairnie's advocate." The notion of a judge in his robes debating as counsel the case which he might afterwards be called upon to decide, is not very reconcileable with modern notions of propriety. Pittilloch entered an appeal, and from no notice being taken in the Parliamentary Journals of its fate, in all likelihood the suit was compromised.*

But a much better authenticated instance of judicial injustice and tyranny has been preserved in the sederunt-book of the parish of Dalry.† It would seem that a Dr. Johnston had, by a codicil to his will, left the sum of £3000 towards the establishing a grammar school in the parish of Dalry. Payment of this sum was resisted by a Mr. Joissy,‡ one of the executors, and an action before the Court of Session was thereupon brought at the instance of the parish. The defender had enlisted under his banners Alexander Gibson of Dury, one of the principal Clerks of Session, and by their joint influence they were enabled to secure a certain portion of the judges. On the other hand, the Earl of Galloway patronized the heritors, and by his and the other means resorted to, the Bench became equally divided.

Unfortunately for the parish, the Lord President‖ had been gained over by Joissy, and he uniformly contrived to manage matters so judiciously, that the cause was never called in the absence of the supporters of the defender. It so happened, to use the words of the report, that the Court hav-

* Lord Harcarse reported from 1681 to 1701; but no notice of this remarkable case is taken in the printed volume of decisions.

† The entry is regularly attested by the subscription of the different heritors. There seems no reason for doubting the accuracy of the statement.

‡ This man was a barber-surgeon, and the following curious entry relative to his professional charges occurs in the note-book of Sir John Fowlis of Ravelston, Bart. ..." April 5, 1680. To John Jossie for cutting my sone Adames tongue, being tongue-tacked, £5, 16s." (Scots money.)

‖ Sir Hew Dalrymple of North Berwick, Bart. second son of the Viscount of Stair. He had the reputation of a first rate jobber.

ing " accidentally appointed a perrempter day, about the " beginning of February 1704, for reporting and decyding in " the cause, both parties concluded that the paroch would " then gain it, since one of Mr Joissy's lords came to be " then absent. For as my Lord Anstruther's hour in the " Outer-House was betwixt nine and ten of the clock in the " morning, so the Earl of Lauderdal, as Ordinary in the " Outer-House, behoved to sit from ten to twelve in the fore- " noon: for by the 21st act of the fourth session of the first " Parliament of King William and Queen Mary, its statuted " expressly, that, if the Lord Ordinary in the Outer-House " sit and reason or voat in any cause in the Inner-House " after the chap of ten hours in the cloak, he may be *declin-* " *ed* by either party in the cause from ever voating there- " after thereintill: Yet such was the Lord President's man- " agement, that so soon as my Lord Anstruther returned " from the Outer-House at ten of the cloak, and that my " Lord Lauderdal was even desired by some of the Lords " to take his post in the Outer-House in the tearms of law: " Yet his Lordship was pleased after ten to sit and voat " against the paroch, the President at that junctur having " put the cause to a voat."

Of this irregular conduct the parish found it their duty to complain; and John Menzies of Cammo, an eminent lawyer, prepared and boxed a declinature of the Lord Lauderdale, in name of Mr. Ferguson of Cairoch and the other heritors, stating the violation of the Act of Parliament by his Lordship voting in the Inner-House after ten o'clock, when he ought to have been sitting in judgment in the Outer-House. This measure had been recommended by some of the judges who were in the interest of the parish, and who had objected to his Lordship's sitting and voting. The next morning the President came to the Court in a tremendous rage, insisting that every individual in any ways connected with the declinature should be punished. Upon this the client, counsel, and agent, were ordered to be cited *as criminals;* the former

escaped, having taken horse about an hour before the macer came to summon him; the latter appeared, but "the speat "was so high against the paroch and them all the time, that "they behooved to employ all their friends, and solicit a very "particular Lord that morning before they went to the house; "and my Lord President was so high upon't, that when "Cambo (Cammo) told him that my Lord Lauderdal, contrair "to the Act of Parliament, satt after ten a cloak, his Lord-"ship unmannerly said to Cambo, as good a gentleman as "himself, that it was a d——d lye."

Upon this Menzies and the agent offered to prove their averments, but the Judges ordained them to be instantly incarcerated, while they deliberated what punishment should be inflicted. After some consultation the two gentlemen were called to the bar as "malefactors," and were ordained to beg Lord Lauderdale's pardon, which they accordingly did.

No redress could by possibility be obtained for this outrageous procedure, for, as the author of the report says, "the "misery at that time was, the Lords were *in effect absolute*, "for they did as they pleased, and when any took courage to "protest for remeid of law to the Scotch Parliament, they "were seldom or never any redress gott there, all the Lords "being still present, by which the Parliament was so over-"awed, that not ane decreit among a hundred was reduced."

Amongst the more influential judges, about the period of the preceding decision, was Lord Whytlaw, who had a very short time before his death been made Justice-Clerk. He expected the Presidency, but the superior influence of Dalrymple had prevailed. Which side he took in the parish dispute alluded to, does not appear. His character is thus pourtrayed by Lockhart, who, after stating he owed his elevation to whiggery, remarks: "He soon displayed a forward "haughty mind. Betwixt man and man, where he had no "particular concern, he was just, but *extremely partial where* "*his friend or his own politics interfered.* He had a sound "solid judgment, but all his actions were accompanied with

"so much pride, vanity, ill-nature and severity, that he was "odious to every body."* His demise, which occurred in the month of December 1704, gave rise to a number of epitaphs, by no means very flattering to his memory. Some of these *jeux d'esprit* are preserved in the collection of Scottish Pasquils so often referred to.

One of them, which has considerable spirit, we insert.—

Old Nick was in want of a Lawyer in Hell
  To preside o'er the Court there of Session,
So old Whytlaw he took, for he suited him well
  For tyranny, lust, and oppression.

'Twixt the Devil and Whytlaw the poor wretches damn'd,
  Will be sore put about in that hot land,
For now since the Justice-Clerk got the command
  They could hardly be worse off in Scotland.

The Union was the first effectual step towards a reform of the Court of Session, and we may fairly ascribe to the establishment of an appellate jurisdiction, the benefits we enjoy under the present system. The right of appeal to a quarter where private influence could not operate, and where local prejudice never could arise, necessarily controlled the judges of the subordinate court, and in this way the seat of Justice was gradually purified. As might be expected, the right of appeal was keenly opposed. In a very able pamphlet entitled the Testamentary Duty of the Parliament of Scotland, the writer, in weighing the reasons both for and against the privilege, remarks, that to allow no appeals, was "to constitute "fifteen tyrants, as our historian (Buchanan) called these "judges of old; and to augment the grievances we are under "already with respect to this judicature, and to fill the whole "nation with complaint and discontent. What shall they

* Lockhart Papers, vol. i. p. 107.

" think of the absolute power who observe, that men take " not ordinarily their measures according to the justice or " injustice of their suits, but their *influence and interests* " *with the Lords*, adhering to the old compend of the Scots " law, Shew me the man and I'll shew you the law? And, " finally, what shall be their opinion of it, who are concerned " in appeals already made from the Session, and in discuss- " ing whereof they expect redress? And certainly it is the " sentiment of the generality of the nation that there should " be appeals from the Lords of Session, if it should have no " other effect than to overawe them."

Even so far down as the year 1737, traces of the ancient evil may be found. Thus, in some very curious letters which passed between William Foulis, Esq. of Woodhall, and his agent Thomas Gibson of Dury, there is evidence that private influence could even then be resorted to. The agent writes to his client, in reference to a pending lawsuit (23d November 1735): " I have spoke to " Strachan and several of the Lords, who are all surprised " Sir F(rancis Kinloch)* should stand that plea. By Lord

* He died 2d March 1747. His grandfather was an Edinburgh Clothier, who acquiring considerable wealth, became Dean of Guild, and subsequently Lord Provost of Edinburgh. His great grandfather was a sexton, if we may give credit to a pasquinade entitled " a gentleman's turn to Jacob Kinloch, for call- " ing him a dunce in the Coffee-house, 1674," where it is said,—

" I wondered much who and what ye could be,
" Till one did thus extract your pedigree,
" His grandsire was a sexton fairie elf,
" Lived on the dead, and diggod graves for pelf
" He left unto his son, which severall yeares
" He did augment by needle, thimble, shears,
" Till pride that devill him threw, and did distill
" Through needle-eye, and made him Dean of Gild," &c.

Sir Walter Scott used to tell an anecdote of one of the family who set up as a man of fashion, and who being present at a meeting of the freeholders of Haddington, took occasion to rally an old gentleman who was there upon the an-

"St. Clair's advice, Mrs. Kinloch is to wait on Lady Cairnie "to-morrow, to cause her ask the favour of Lady St. Clair to "solicit Lady Betty Elphingston and Lady Dun. My Lord "promises to back his Lady, and to ply both their Lords, "also Leven and his cousin Murkle.* He is your good "friend, and wishes success; he is jealous Mrs. Mackie will "side with her cousin Beatie. St. Clair says, *Leven* † *has* "*only once gone wrong upon his hand since he was a Lord* "*of Session.* Mrs. Kinloch has been with Miss Pringle, "Newhall. Young Doctor Pringle is *a good agent there,* "and discourses Lord Newhall ‡ *strongly on the law of* "*nature,*" &c.

Again, upon the 23d of January 1737, he writes,—"I can "assure you that when Lord Primrose left this town, he "staid all that day with Lord J(ustice) C(lerk)§ and went "to Andrew Bromefield att night, and went off post next "morning; and what made him despair of getting any thing "done was, that it has been so long delayed, after promising "so frankly, when he knew the one could cause the other "trot to him like a penny-dog, when he pleased. But there's "another hinderance: I suspect much Penty|| has not been "in town as yett, and I fancy its by him the other must be "managed. The Ld. J(ustice) C(lerk) is frank enough, but "the other two are damned clippies. I met with Bavelaw "and Mr. Wm. Tuesday last. I could not persuade the last "to go to a wine-house, so away we went to an aquavity-

tique cut of his garments, remarking that he was very much delighted with their elegance and fashion, "deed my man, was the reply" "so *you* ought, for they "were made by your grandfather."

* John Sinclair of Murkle, appointed a Lord of Session in 1733.

† Alexander Leslie, Advocate, succeeded his nephew as fifth Earl of Leven, and fourth Earl of Melville in 1729. He was named a Lord of Session and took his seat on the bench on the eleventh of July 1734. He died 2d February 1754.

‡ Sir Walter Pringle of Newhall, raised to the bench in 1718.

§ Andrew Fletcher of Milton was appointed, on the resignation of James Erskine of Grange, Lord Justice-Clerk, and took his seat on the Bench 21st June 1735.

|| Probably Gibson of Pentland.

"house, where I told Mr. Wm. what had past, as I had "done before that to Bavelaw. They seemed to agree no-"thing could be done just now, but to know why Lord "Drummore* dissuaded bringing in the plea last winter. "*I have desired Lord Haining to speak*, but only expect "his answer against Tuesday or Wednesday."†

It is not our intention to pursue these remarks further, although we believe that judicial corruption continued long after the Union. We might adduce Lord President Forbes as a witness on this point, who, one of the most upright lawyers himself, did not take any pains to conceal his contempt for many of his brethren. A favourite toast of his is said to have been, —"here's to such of the judges, as do'nt deserve the gallows."‡ Latterly, the complaint against the judges was not so much for corrupt dealing, with the view of enriching themselves or their "pet" lawyer, but for weak prejudices and feelings, which but ill accorded with the high office they filled.

These abuses, the recapitulation of which may amuse and instruct, are now only matter of history,—the spots that

* Hew Dalrymple of Drummore, appointed a Lord of Session in 1726.

† The original letters are in possession of Sir James Foulis, Bart. of Woodhall.

‡ A story is told of one of the judges of the old school, which, if correct, indicates, that not quite a century since, there still did exist some of the old leaven, It is said that a law-suit had for some time depended between the Magistrates of a certain circuit town and some neighbouring proprietor, which had been brought to a termination unfavourable to the wishes of the former by the admirable management of one of the judges. This eminent person, who happened to be a justiciary judge, had occasion officially to visit the town in question, where he was received with becoming gratitude and attention by the gratified Magistrates. At a feast,—whether given by the judge or his clients we forget,—the Magistrates gravely thanked the learned Lord for his kind exertions, and trusted he would continue his patronage. My Lord smiled and bowed, and looked particularly amiable;—presuming on his good nature and complacent demeanour, one of the number ventured to hint, that his Lordship's services might again be required, as they, emboldened by their former success, had commenced another new suit, and he was humbly requested to carry them through with that case also. "Na, na, I canna do that," exclaimed my Lord; "why?" exclaimed all the astonished Magistrates, amazed probably at what they conceived to be a most uncalled for scruple of conscience, "because" rejoined the judge, "you're too late, I've already gein my promise to the opposite party."

once sullied the garments of justice are effaced, and the old compend,—" Shew me the man and I'll shew you the law," is out of date.

II.

LINES ON SIR JAMES STEWART, LORD ADVOCATE.

Sir James Stewart was very unpopular with the jacobite party who vented their spleen against him in lampoons. To them he was indebted for the soubriquet of Jamie Wylie.* He held the office of Lord Advocate, with the exception of one year, from 1692 until his death in 1713.† The beautiful estate of Goodtrees (commonly pronounced Gutters) and now called Moredun, in the Parish of Libberton, belonged to him. In the Scotish Pasquils will be found the following pithy lines upon Sir James, from a MS of old Robert Mylne.

Sir James Stewart thoul't hing
in a string,
Sir James Stewart, knave
and rogue thou art,
For thou neer had a true heart
to God or King,
Sir James Stewart thoul't hing
in a string.

Quam formosa tua et facies tenebrosa Stewarte,
Quam simplex, duplex, quam falsum pectus honesti,
Quam verax mendax, oh ! quam suavis amarus.
Quam celeste tecum meditans terrestria pectus,
Tuque colens Christum, cœlum, nec Tartara credis
Non mirum quamvis ludis utraque manu.

PARAPHRASED.

How wonderous are the features of thy face,
Where smyles and frowns by turns assume their place.
That gloomy cloud which on thy brows does sit
Speaks thy deep judgement and thy dangerous wit:

* Scotish Pasquils, Vol. 1. p. 78.—Edin. 1827, 12mo.

† Transactions of the Antiquarian Society of Scotland, Vol. 1. p. 320.—Edin. 1792, 4to.

Thy visage is ane emblem of thy heart
Where every passion acts a different part;
A subtile serpent, now a harmless dove,
All rage and furie—in a moment love.
By nature false, yet honest if thou please,
Honey or gall, speak truth or specious lyes,
Such Proteus shapes you can put on with ease.
A saint in show, but in a carnal mynde,
A slave to mammon's drossie part inclyn'd;
Heav'n thou pretends to seek, but heav'n does know
All thy desires are center'd here below.
Wheedling's thy trade, and spite of all commands
Thou find'st the art to play with both the hands.

III.

THE POOR CLIENT'S COMPLAINT,

DONE OUT OF BUCHANAN.

From a broadside in the Library of the Faculty of Advocates, upon which is written the following MS. Note.

"Epigram 1. Book 1st, by Master Andrew Simpsone, Episcopale Minister, as is commonly reported; and he confessed it before Mr. Davide his sone, and Andrew Lawder, writer, his lodger, in Anno 1707 and thereafter."

Simpson is well known for his zeal and sufferings for Episcopacy. He was the author of various works controversial, topographical, and poetical. His account of Galloway was a few years since published from a MS. in the Faculty Library by Thomas Maitland, Esquire, Advocate. The poem, if it can be so termed,—entituled "Tripatriarchichon, or the Lives of the three Patriarchs, Abraham, Isaac, and Jacob, extracted forth of the sacred king, and digested into English verse." Edinburgh, 1705, 8vo,—is known to the book collector for its rarity; and to the book reader for its absurdity.

Colin, by promise, being oblig'd to pay
Me such a sum, betwixt and such a day;
I ask'd it—he refus'd it—I addrest
Aulus the Lawyer. He reply'd "Its" best
To sue him at the Law. I'll make him debtor,
"Your cause is good, there cannot be a better."

Being thus advis'd, away to Pate I trudge,
Pray him, and pay him, to bespeak the Judge.
Engag'd thus far, be't better be it worse
I must proceed, and thus I do depurse:—
For writing summons, signing, signeting,
With a red plaster and a paper ring;
For summoning the principal, and then
For citeing witnesses to say "Amen!"
For execution (alias indorsations),
For tabling, calling with continuations;
Next for consulting Aulus and his man;
(For he must be consulted now and then),
For pleading in the outer-house and inner
From ten to twelve—then Aulus goes to dinner;
For writing bills, for reading them, for answers,
More dubious than those of Necromancers.
For interlocutors, for little acts,
For large decreets, and their as large extracts,
For hornings, for discussing of suspensions
Full stuff'd with lies and frivolous pretensions,
For "Please your Lordships" and such like petitions,
For raising and for serving inhibitions.
And for comprysings, or adjudications,
For their allowances for registrations,
With many other acts and protestations,
Which may be summ'd up in one word—vexations.
Then unexpectedly upon a small
Defect alleg'd, Colin reduces all:
We to 't again, and Aulus doth disjoint
The process, and debates it point by point;
The cause at length's concluded, but not ended,
This made me wonder!—Aulus he pretended
Decreets must not be given out at random,
But must abide a serious avizandum,
Conform to course of roll.—When that will be
Indeed I cannot tell, nor yet can he.

Thus Aulus hath for ten years' space extended
The plea, and further more I have expended

Vast sums, to wit, for washing, lodging, diet,
Yet seldom did I rest or sleep in quiet.
For coal, for candle, paper, pen, and ink,
And such like things, which truely one would think
Were unsignificant, but yet they 've come
In ten years' space unto a pretty sum.
To macers, turnkeys, agents, catchpoles, pates,
Servants, sub-servants, petty foggers, cheats;
For morning-drinks, four-hours, half-gills at noon,
To fit their stomach for the fork and spoon
To which they go, but I, poor man, meanwhille
Slip quietly to th' Earl of Murray's* aisle.
We meet again at two, then to disgeast
Their bellyful, they 'll have a gill at least.
Sometimes a double one, for brandy-wine
Can only end the war called "intestine."
For mum, sack, claret, white-wine, purl, beer, ale,
(One he would have it new, another stale,
Both must be pleased,) for pipes, tobacco, snuff,
Twist, coffee, tea and also greasie stuff
Called chocolet,—punch, clarified whey,
With other drinks, all which I duely pay,
For rolls, for nacketts, roundabouts, sour kakes,
For cheshire cheese, fresh butter, cuckies, bakes,
For paunches, saucers, sheep heads, chits, black pyes,
Lamb legs, lamb kirnels, and lamb privities,
Skait, lobsters, oysters, mussels, wilks, neats-tongues,
One he for leeks, beer, and red herring longs;
This must be had, another doth prefer
Raw herring, onions, oil, spice, vinegar,—
Rare composition; and he's truly sorry
It's not in Colpepper's Dispensatory:
For apples, pears, plumbs, cherries, nuts, green peas,
Dulce, tangles, purslain, turneps, radishes,
With forty other things I have forgot,
And I'm a villain if I pay'd them not.
Moreover my affairs at home sustain
Both the emergent loss, and cessant gain;

* Old Kirke.

Aulus himself terms this a double loss,
And I call him and it a triple cross.

By all these means my expenses do surmount
Near ten times ten times Colin's first account.
And now e'er that I wholly be bereft
Of th' little time and money to me left,
I'm at the length resolved thus to do,
I'll shun my debtor and lawyer too;
And after this I never will give credit
Unto one word, if either of them said it:
You 'll ask which of the two I'd rather shun,
Aulus—it's he, it's he hath me undone,
I've words from both, yet sad experience tells
That Colin gives, but Aulus dearly sells.
Th' unwary reader thinks perhaps that I
Have penn'd a satyre 'gainst the Faculty,
'Gainst those who by their accurate debates
Maintain our rights and settle our estates,
Who do their very lungs with pleading spend
Us 'gainst oppressors stifly to defend.
A gross mistake, for I'll be sworn I do
Admire their parts and their profession too;
I wish that law and lawyers both may thrive,
And at the height of grandeur so arrive
That in all good men's eyes they may appear
Like burnisht gold, both beautiful and clear,
That this may be, (and 'tis for this I pray),
Rust must be scour'd off, cobwebs swept away.

IV.

A LETTER FROM THE GHOST OF SIR WILLIAM ANSTRUTHER OF THAT ILK, ONCE SENATOUR OF THE COLLEDGE OF JUSTICE, TO THE LORDS OF SESSION AND COMMISSIONERS OF JUSTICIARY.

From a MS. preserved in the Collections of the indefatigable Wodrow. Lord Anstruther was appointed a Judge of the Court of Session 1st November 1689: was nominated a Justiciary Judge 9th November 1704, and died at his lodgings in Edinburgh, 24th January 1711. He was the author of a work entituled "Essays Moral and Divine."—Edinburgh 1701, 4to.

My Lords, *Elysian Fields, 27 Jany.* 1711.

Having had the honour for several years to be one of your number, and being obliged, very much against my will, to leave soe good company and society, I tho't it my deuty to pay you my respects by this, which Charon promised to send to the earth, by the first messenger of death who should be ordered to the upper world.

Of late, it seems he hath work enough upon his hands; for, till I arrived, poor John Adams, our macer, gote not on board, which I indeed first imputed to his civility to me, who, as he was informed, was quickly to follow, not considering that nobody works without wages, and that none are payed in our worlde. We no sooner got on board, but the boat was ready to sink; for John's soul remained still very ponderous and heavy, and mine, you know, was alwise terrestrial. However, at last, with great difficulty, we reached the happy shoer; and then, my Lords, and never before, I had a treu veu of justice, which here soe impartially reigns, that your Lordships, at present, cannot comprehend it, or have any notions of it. Never till now did I see a whole sett of honnest, knowing, piouse, and just judges; and it's weel that such are to be found somewhere. They are not here created by court favour, but the most deserving and

learned are always chosen. A profound silence is still keept, and the judges deliver their opinion calmly and modestly. There is here no barking and bauling amongst the judges, to show their parts, and impudently to revile the President of the Court. There is here noe delay of justice —noe counting of noses—noe sending home partys to take a pint, and 'gree the matter. Sentence is immediately given, without acts before answer; nor are there reclaiming bills upon bills, and the judges doe not trouble themselves with many avisandums to themselves. Here there is not soe much as the knowledge of a noe process. Some criminals would give a great deal for such ane advice, to delay their punishment for some time. And sure I am Mr. John Meinzies of Cammo* would make a considerable fortune in this place. Clerks and extractors doe not here unconscionably peil the leidges of exorbitant deues. There is noe tearing of leaves out of the records or books of adjournall (which have always been counted sacred) after sentence was passed; for then our infernal judges think they are *officio functi.* When persons are really guilty, there is no desertion of diets—no abstracting of evidence, nor sending men out of the way. Soe careful is our Proctor Fiscal, that he secures in prison all the witnesses against the party accused, till they find surety to appear when summoned. In a word, I was very soon dismissed, and had a more favourable sentence then probably I would have got, had I been more skilled in the quirks and subtilties of law. In the agreeable aboads, I found only

* John Menzies of Coluterallers, in the county of Lanark, acquired the estate of Cammo, in the parish of Cramond, and county of Edinburgh, by marriage, (13th March 1679), with Rachael Wilkie, heiress of James Wilkie of Cammo. His wife died in 1688, at the age of 37. Mr. Menzies got involved in difficulties, and in 1710 sold Cammo to Sir John Clerk of Pennycuick, Bart. It is now under the appellation of "New Saughton" the property of Mr. Watson of Saughton. Its former possessor was an advocate whose independent conduct had rendered him peculiarly obnoxious to the Bench. See a most amusing account of a dispute between him and Lord President Dalrymple in the "Anecdotes of the early Administration of Justice."—P. 17.

two Lords of the Session, the Lord C[ross]rig,* and E. L[auder]dale.† I enquired for my old friend, my Lord Wh[ytla]w,‡ and was told that he was sentenced to have a certain lady, one of the furies, eternally to switch him with rods, back and side (which the English call flogging), and to pay that fury all the estate he should ever purchase for her pains.§

I shall not trouble your Lordships with any more at present, but only beg you would order it to be intimated to the Faculty of Advocates, that, in a short time, I shall write particularly to them. As for my old friend Dr. Pitc[air]n‖ and the College of Physicians, I have no time to write to them at present, or, if I had, I would prove, to their mighty surprize, that there is both a God and a Devil, a Heaven and a hell. Nor will I write to the Divines, otherwise I would make it appear that selfish, hypocritical people, and

* Sir David Hume of Crossrig, one of the judges, whose "Diary of the Proceedings in the Parliament and Privy Council of Scotland, May 21, 1710—March 7, 1707," was printed in 1828 for the members of the Bannatyne Club, by John Hope, Esq. Dean of Faculty.

† Brother of the Duke of Lauderdale, to whose Earldom he succeeded in 1683. He was raised to the bench 9th June 1669, and took the title of Lord Halton or Hatton. If Fountainhall may be believed, his claim to a residence in the "agreeable abodes," is somewhat questionable, as he was remarkable for his insolent and disobliging behaviour. Haig's Senators of the College of Justice, p. 398. Edin. 1832. 8vo.

‡ Lord Whytlaw was a younger son of Hamilton of Bangor. He was a lawyer of considerable ability but doubtful integrity, for he was, like his brethren, very just "where he had no *particular* concern," but extremely partial where his friend or his own politicks interfered." See page 18. He held the situation of Lord Justice-Clerk at the time of his death in December 1704.

§ His Lordship cut off his relations from his succession, and left every sixpence of his fortune to his wife,—a circumstance that gave great offence at the time, and is here alluded to. See also Scottish Pasquils, Vol. I. p. 72.

‖ The witty Doctor Pitcairn, whose religious opinions were supposed not to be very orthodox. He prosecuted Dr. Webster for calling him an atheist. Pitcairn had been at a book sale, where Philostratus had brought a large price. A copy of the Holy Scriptures was afterwards put up, but no person would buy it. Some one observed it was very wonderful that so exceptionable a work as Philo-

those who are inclined to strife, desolation, and persecution, are never admitted to these happy aboads. I am,

My Lords,
Your Lordships' most humble and
obedient servant,
WILLIAM ANSTRUTHER.

V.

SONGS IN THE JUSTICIARY OPERA.

Reprinted from the edition privately printed by the late Sir Alexander Boswell, Bart. Auchinleck, 1814, 4to. In the preface to this rare volume, it is remarked, that the "Songs of the Justiciary Opera were the light pastime of men who made no contemptible figure in grave pursuits. We know not if any of them were ever committed to writing: many are lost and forgotten, and those that are here preserved, are given from memory." We believe that Lord Dreghorn and James Boswell were amongst the principal contributors. The Songs marked with an asterisk, are interpolations by Sir Alexander Boswell.

DRAMATIS PERSONÆ.

CALIENDROSUS MAXIMUS, Grand Clerk of the Scales and Chopping Knife, and Commander of the Forces.
HYSTRIX, Clerk of the Rounds.
BOMBYX, a very great Officer.
JOHN BLACK, the Pannel.
BAMBOOZLE, } Oraters for the Pannel.
FLAW-FINDER, }

stratus should be so eagerly bought up, while no one would even bid for the Bible. "Not at all," said Pitcairn; "for is it not written, Verbum dei manet in æternum?" This witticism reaching Webster, was the immediate cause of the epithet above mentioned being applied. There was no foundation for the charge; but Pitcairn spoke freely—could not resist a joke—disliked and libelled Presbyterians—and was an Episcopalian,—*hinc illæ lachrymæ.*

PEPPERTAIL, the Horse-Couper,
BIZZ, the Blacksmith,
PETER BROWN, the Exciseman,
MATHEW MUTCHKIN,
WIDOW MACKLEERIE,
} Witnesses.
WAITER.

Judges, Jurymen, Sheriffs, Baillies, Serjeants, Mob, &c. &c.

SCENE.—*An Inn.*

CALIENDROSUS MAXIMUS, et HYSTRIX.

DUET.—AIR.—*Saw ye my father?*

Cal.—Saw ye my Trumpeter?
Or saw ye my Macer?
Or saw ye my man John?

Hyst.—I have not seen your Trumpeter;
I have not seen your Macer;
And drunk is your man John!

(Martial Music.)

Enter a WAITER.

* AIR.—*Hey Jenny come down to Jock.*

Waiter.—The Baillies are waitin,—the Provost is come,—
Twal permanent serjeants, a fife and a drum;
Twa Sherras, wi' swords, (but they're peaceable men;)
And some twa three mair,—and the clock's chappit ten.

A Grand Procession.

SCENE.—*A Hall.*

Enter CALIENDROSUS MAXIMUS, BOMBYX, HYSTRIX, BAMBOOZLE, FLAW-FINDER, MACER, JURYMEN, MOB, &c.

* AIR.—*Fye let us a' to the weddin.*

Hyst.—Ge—en—tlemen o' the Jury,
Ye'll answer until a' your names.—
Walter Balwhid o' Pitlurie.
Jurym.—Here.
Hyst.—Mathew Powloosie o' Kames.
Jurym.—Here.
Hyst.—Duncan Macwhey o' Todwiddock.
Jurym.—Here.
Hyst.—Jacob Bafour o' Howbrig.
Jurym.—Here.
Hyst.—John Macindo o' Glenpuddock.
Jurym.—Here.
Hyst.—Hew Gib in Bog o' Daljig.
Jurym.—Here.
Hyst.—Patrick Macrone o' Craig-gubble.
Jurym.—Here.
Hyst.—George Yellowlees in Cowshaw.
Jurym.—Here.
Hyst.—Ralph Mucklehose in Blindrubble.
Jurym.—Here.
Hyst.—Robert Macmurdock in Raw.
Jurym.—Here.
Hyst.—Andrew Mackissock in Shalloch.
Jurym.—Here.
Hyst.—Ingram Maclure in Benbole.
Jurym.—Here.
Hyst.—Gilbert Strathdee in Drummalloch.
Jurym.—Here.
Hyst.—Gabriel Tam in Dirthole.
Jurym.—Here.

Hyst.—Lowrie Macwill o' Powmuddle.
Jurym.—Here.
Hyst.—Daniel Losh o' Benskair.
Jurym.—Here.
Hyst.—John Stoupie, writer, Kirkfuddle.
Jurym.—Here.
Hyst.—Baillie Bole, shoemaker there.
Jurym.—Here.
Hyst.—Samuel Macguire in Craig-gullion.
If present, Sir, answer your name.
Jurym.—Here.
Hyst.—Quintin Maccosh in Knockdullion.
Jurym.—Here.
Hyst.—Gal–lery—si–lence—Ahem !

* * * * *
* * * * *
* * * * *

*Air.—*In the Garb of Old Gaul.*

Macer.—Hem !—Si–lence.
Cal.—Officer, bring John Black to the bar.
(The Pannel is brought in guarded,* and Petitions for Banishment.)

Air.—*The Lee Rig.*

Pannel.—O send me oure the lang seas,
My ain kind lordie O;

* Alas ! I cannot insert this word, without feelings of the most painful nature ! The Town-Guard of Auld Reekie is now no more ! and a gentleman, tried before the High Court of Justiciary, must submit to the indignity of sitting between two non-descripts called policemen, who sport glazed hats, and handle no better weapons than batons. How different was it in days of yore ?—How dignified was the cocked hat of the gray-haired veteran ! How imposing his queue. How awful his Lochaber-axe ! But this is the age of innovation and reform ; and a man will, ere long, not even be hanged, with common decency. I wonder the illustrious Hume has not, ere now, pointed out to the reformed House of Commons, the absurdity of the Country being at the cost of a new rope for each new culprit, when one good one might suffice for a score !—Printer's Devil.

O send me oure the lang seas,
My ain kind lordie O.

O send me east, or send me wast,
Or send me south or nordie, O;
But send me owre the lang seas,
My ain kind lordie O.

* AIR.—*Lass gin ye lo'e me tell me now.*

Cal.—Pannel, a halter must be your end,
The fiend, at your skirts, has now his prong;
Your days, that are number'd, in penitence spend;
But I'll lecture you, presently, half an hour long.

Mercy were folly, if lavish'd on him;
Robbing and thieving, the gallows shall check;
Our duty is plain, we'll proceed to condemn,—
John —— you shall presently hang by the neck.

AIR.—*We're gayly yet.*

Pannel.—We're no guilty yet,
We're no guilty yet,
Although we're accused,
We're no guilty yet.

Afore ye condemn,
Ye man hear us a bit,
For although we're accus'd
We're no guilty yet.

(Jury are chosen, and the Indictment read.)

* AIR.—*Grimaldi's Jig in Mother Goose.*

Hyst.—Whereas by the laws o' this realm,
And o' ev'ry well governed land,
To seize on anither man's geer,
(As the tangs ance a Highlandman fand.)

And whether the thief he be caught
In the fact, or be gruppit out-fang,
The law says expressly, and wisely,
That chiel by the thrapple shall hang.

And you John Black, there, the pannel,
Ye robbit, assaulted, and a'
And sae, gang till an assize, Sir,
And underlie pains o' the law.*

* Air.—*Miss Macleod's Reel.*

Bombyx.

Painfull the duty is, which I must now perform,
Stating a train of guilt uncommon and enorm,—
Ous,—calling my witnesses to make the fact out plain,
And if your verdict's guilty, my labour's not in vain.

Gentlemen, your feelings must, with justice never jar,
The statutes of the land condemn the pris'ner at the bar;
The law most clearly indicates the gallows, as reward,
For culprits such as him between the soldiers of the guard.

John Black met Peter Brown, upon the King's highway,
With foul intent to rob,—I fear intent to slay;
John Black, the pannel, did step up to Peter Brown,
And with his fist, or bludgeon, did knock said Peter down.

Ferocious, atrocious, felonious also,
Did *then* and *there*, with *that* or *this*, reiterate the blow;
Then seized Peter by the throat, to suffocate his cries,
And most outrageously exclaim'd, "Your money, d—— your eyes."

Enter PETER BROWN.

* AIR.—*The bonniest lass in a' the warld.*

Peter.—The pannel's a regardless loon,
And brags that he defies man;
And bauldly threepit through the town
He'd *do* for the exciseman.

I thought 'twas nought but silly clash,
That sneevlin' gowks wad tell me;
Quo' I, my thum I wanna fash,
It's no *siclike* can fell me.

Four cadgers rade through Halk-wood-stack,
I doubted Jean Macleerie;
I took the road, when up cam Black,
And dang me tapsalteerie.

He rypit, maybe, for his knife,
I thought I saw it glancin',
He took the rue, and sav'd my life,
Syne, like a de'il, gaed dancin'.

Enter PEPPERTAIL.

AIR.—*Braw lads o' Galla Water.'*

Pepper.—Comin' frae the toun o' Straiven,
On my poor mare that had the spavin,
I met the pannel near the Kirk o' Shotts,
Like ony madman he was raivin.

Black his hair, and blue his coat,—
Tightly he did the gauger han'le,
The mair he shuck the fallow by the throat,
The steadier still I e'ed the pannel.

Enter MATHEW MUTCHKIN.

* AIR.—*Calder Fair.*

Mat.—As I cam hame frae Ruglin fair,
At e'en, whan it was dusky,
I had enough—and may-be mair,
A drap oure muckle whisky.

I saw twa fallows yoke thegither,
Wha they war, the taen or tither,
I ken na mair nor Abram's mither,
I was blin' wi' whisky.

Enter BIZZ.

* AIR.—*Will ye gang and marry Katy?*

Bombyx.—Pray, What is your name, friend? tell us.
Bizz.—Tammas Bizz.—I've blawn the bellows,
And I've clinkit on the studdy
Sin' a wean, knee-heigh and duddy.

And the gauger, weel I ken,
Aft he stammers butt and ben,
Snowkin a' frae end to end,
He's mislear'd and capernoited.

And I ken Jock Black fou weel,
A sturdy hand at our fore-hammer;
Bess, his wife, flytes at the chiel,
But weel a wat I do condemn her.

Wark, ye ken yersels, brings drouth,
Wha can thole a gaizen'd mouth?
And gif he tak a gill, forsooth
Queans maun flyte, and fools man clatter.

Jock, I ken's an honest lad,
Thievish pranks was ne'er his custom;
Tho' he be sae sair misca'd,
Wi' gowd in gowpins ye may trust him.

I hae kent him sin' a bairn,
A penny willing aye to earn;
And tho' he's coupit i' the shearn,
Troth I ken nought ill about him.

Enter WIDOW MACLEERIE.

AIR.—*I hae a wife o' my ain.*

Widow Mac.—I hae a house o' my ain,
On the road to Hamilton;
Whiskey I sell, to be plain,
Arran Water, or *Campbelton*.

Peter, the gauger, himsel',
Whiles comes pipple papple in,
Pusion, frae ony big stell,
He'll no pit his thrapple in.

Widow Macleerie's my name,
Mine's a tippeny eatin house;
Carriers find a warm hame,
Mine's niest door to the meetin-house.

As for the pannel John Black,
I'm wae to see him here awa,
He never wrang'd me ae plack,
Gude send he won clear awa!

(*The Orators for the Pannel pleads.*)

AIR.—*Deil tak the wars.*

Bamboozle.

Fye on the laws that hang a man for stealing,
Sure such penal statutes were savagely fram'd
By legislators devoid of human feeling,
Before divine religion mankind had tam'd.
Gentlemen, 'tis yours, with vigour,
To check the laws excessive rigour;
*Yours is the power, to you the choice is given,
A father—husband—bends;
On you his fate depends:
'Tis yours to take or give,
To bid him die—or live!
Then here that mercy show, you hope from heaven.

AIR.—* * * * * *

Flaw-Finder.

Gentlemen, now 'tis my turn to address you,
And with much speaking I need not oppress you;
The proof lies before you, in writing down taken,
All I do wish is to save this man's bacon.

But as it is usual, some few things to mention,
I say, that to steal, it was not his intention;
So be not, I pray, like the Lords, in a fury,
But bring this man off, like a sensible jury.

(Charge to the Jury.)

*AIR.—*Merrily Dance the Quaker.*

Cal.—If ever a case before me came,
That I could judge most clearly,
This is a case, I'll boldly name,
I've scrutiniz'd it nearly.

To trace the truth through all its track,
No witch requires, or jugglers;
The witnesses are all a pack
Of drunkards and of smugglers.

The counsel for the Crown, with skill,
Extorted facts most glaring;
Black, when prim'd, by stoup and gill,
You see, became most daring.

That Black put Brown in mortal fear,
The proof is clear,—*clarissima;*
And that he rob'd, tho' not quite clear,
Presumptio est fortissima.

Gentlemen, 'tis my desire
To state the case precisely;
'Tis you to judge, so now retire,
And weigh your verdict wisely.

The proof is strong, a verdict bring,
Such honest men becoming;
I need not say one other thing,
And so I end my summing.

(Jury are enclosed.)

LOWRIE MACWILL O' POWMUDDLE, *Chancellor.*
JOHN STOUPIE, *Clerk.*

*AIR.—*Ally Croaker.*

Powmuddle.—In this case there's nae argument,
Nae minor and nae major;
A chield had taen a glass, and had
A towzle wi' a gauger.

That there's nae proof o' robbery,
To see, I think, ye canna miss;
Sae we the pannel man acquit,—
No guilty, Sirs,—Unanimous.

Demi Chorus by Five Jurymen. } Unanimous, Unanimous,
Double Chorus by Ten Jurymen. } Unanimous, Unanimous,
Grand Chorus by the whole Fifteen. } Sae we the pannel man acquit,
No guilty, Sirs,—Unanimous.

(The Verdict is returned, Caliendrosus Maximus reads—in passion.)

AIR.—*Up and Down Frisky, and fire away Pat.*

Caliendrosus,—

A plague o' such juries, they make such a pother,
And thus, by their folly, let pannels go free,
And still on some silly pretext or another,
Nothing is left for your Lordships and me.

Our duty, believe us,
Was not quite so grievous,
While yet we had hopes for to hang 'em up all;
But now they're acquitted,
O how we're out-witted,
We've sat eighteen hours here for nothing at all.

(Chorus by the whole Bench.)

Tol de rol, lol de rol, lol de rol, lol de rol,
Tol de rol, lol de rol, lol de rol, tol de rol.
But now they're acquitted, &c.

(Mob without Huzza.)

VI.

THE JUSTICIARY GARLAND.

This is said to be the joint composition of Robert Cullen, Esq. afterwards Lord Cullen, Colin Maclaurin, Esq. afterwards Lord Dreghorn, James Sinclair, Esq. afterwards a Principal Clerk of Session, and James Boswell, Esq. the Biographer of Johnson.

1.—*Packing the Jury.**

First pray rise up Black of Greenmountain,
We ken you are not yet a Peer;
Since last you condemn'd the sheep-stealer,
We're ay glad to see your face here.
Then pray stand up Deacon John Webster,
The pride and support of the church;
Since last you commenced politician,
You'll no leave your friends in the lurch.

2.—*Pleading on the Relevancy.*

Tho' the pannel does not wish the truth to disguise,
Yet he pleads, that he ought not to thole an assize,
For in his indictment there is such a flaw,
That your Lordships from it no conclusion can draw;
For no relevant charge does the *major* contain;
Nor the *minor* the fact which it founds on explain.
Thus the libel appears quite informal in law,
And your Lordships from it no conclusion can draw.

* It is, perhaps, hardly necessary to observe, that until Mr. Kennedy's act, by which the jurymen were ballotted for, they were selected by the presiding Judge from the list of assize before him, subjoined to the indictment. It was said, during the time the Judges had the nomination, that those individuals were uniformly sworn in who had previously been upon juries that had returned verdicts for the Crown;—hence, in reference to this popular belief, the authors make the Judge compliment Black of Greenmountain for his conviction of the sheep-stealer, and to assign this as the reason why his Lordship was "ay glad to see" his "face" on an assize.

3.—*Answer.*

Then who would now go study law, municipal or civil,
To snuff-shops let the *Corpus* go, and Erskine to the devil;
No proposition is so plain that Crosbie won't dispute it,
His arguments I so disdain, 'tis lost time to refute it.

The Judge examining a Witness.

Come up to the table, and look in my face,
  Remember you are upon oath, Sir;
If you alter one *iota*, time, person, or place,
  I'll whip and imprison you both, Sir.
    Chorus by the whole Court.—Tall de rall, &c.

4.—*The Pannel's Defence.*

I'm not guilty yet, I'm not guilty yet,
Although I'm accused, I'm not guilty yet;
Before you condemn, ye maun hear a bit,
Although I'm accused, I'm not guilty yet.

5.—*Address to the Jury.*

Gentlemen, 'tis my turn to address you,
And with much speaking I'll not oppress you;
The proof lies before you, in writing down taken,
Therefore, I hope, you will spare this man's bacon.
But as it is usual a few things to mention,
To steal, I believe, he had no intention;
Therefore be not, like the Lords, in a fury,
But bring him off like a sensible Jury.

6.—*Petition for Banishment to the Court.*

O send me o'er the wide seas, my ain kind Lordies, O,
To Sidney-Cove, or where you please, my ain kind Lordies, O;
For gang this trial as it will, my ain kind Lordies, O,
In Scotland I can fare but ill, my ain kind Lordies, O.

7.—*Intended last Speech.*

Ye now assembled, here attend,
To witness my untimely end,
And ear not unpropitious lend,
  To an old soldier's story.
Last war when every hostile shore,
Did with the British thunder roar,
I in successful battle bore
  A share that gain'd me glory.

The French of India, east and west,
Were by our leaders dispossess'd,
And all their Admirals confess'd,
  That they were beaten fairly.
But now* the difference sure is great,
We hardly meet the Gallic fleet,
From Yankies our best troops retreat.
  And with a Congress parley.

Though by severity misled,
Both King and Court would have me dead;
The blood I for my country shed,
  Will yet be my salvation:
I die in hopes I'll soon be where,
Great Wolfe enjoys the starry sphere;
And looking downwards, sheds a tear,
  To see the alteration.

Petition to the King.

I am a chief of the M'Craws,
Knew nothing of your Lowland laws,
Which of my stealing was the cause,
  But I'll not steal again, Sir.
    O let me aff this ae time,
    This ae time, this ae time,
    O let me aff this ae time,
      I'll never steal again, Sir.

* In the year 1778.

A fencible I'll guard at home,
Or on the seas a sailor roam,
Even common soldier I'll become,
Or what else you incline, Sir.
O let me aff this ae time, &c.*

* The Justiciary Garland was for the first time printed by the late Dr Duncan in a collection of macaronic poems; from what quarter he procured it has not been ascertained,—perhaps from the recitation of some of the parties concerned in the authorship; it has the appearance of being incomplete, from being deficient in the verdict and sentence. It is very probable that the presiding judge is meant for Lord Kames, who was very fond, it is said, of procuring convictions; see page 48. His Lordship at times did say odd things on the bench, as the following anecdote sufficiently indicates. Being on the circuit at Perth, after a witness on a capital trial had concluded his testimony, his Lordship said, "Sir, "I have one question more to ask you, and remember you are on your oath. "You say you are from Brechin?"—"Yes, my Lord."—"When do you return "thither?"—"To-morrow, my Lord."—"Do you know Colin Gillies?"—"Yes, my Lord, I know him very well."—"Then tell him I shall breakfast "with him on Tuesday morning."

Mr. Gillies was an elder brother of Dr. Thomas Gillies of Balmakewan, the father of R. P. Gillies, Esq. advocate, who is well known for his translations from the German, and as author of an interesting volume of Reminiscences of his friend Sir Walter Scott, which originally appeared in detached portions in Fraser's Magazine.

His elder brother was John Gillies, L.L.D. the historian of Greece, and Royal Historiographer for Scotland. His youngest brother is Adam Gillies, Lord Gillies, a distinguished ornament of the Scotish Bench.

Mr. Colin Gillies, who was a leading man in Brechin, was celebrated for his kindness and hospitality—he died several years since at a good old age, and although latterly infirm, he retained his spirits to the last, so much so, that when in company with his friends, he would, over his cheerful glass, recur to olden times, and gratify his auditors with many curious reminiscenses and anecdotes of the past.

VII.

THE COURT OF SESSION GARLAND.

This jeu d'esprit was chiefly written by James Boswell, although Lord Dreghorn is supposed to have had a hand in the composition of it. His Lordship, says Chambers, "was extremely fond of the poem, and used to sing it frequently in the slow drawling *naif* style which added so much to its value in the estimation of a last century hearer."*

Part First.

Tune.—*Logan Water.*

1

The Bill charged on was payable at sight
And decree was craved by Alexander Wight ;†
But, because it bore a penalty in case of tailzie
It therefore was null, contended Willie Baillie.‡

2

The Ordinary not chusing to judge it at random
Did with the minutes make avizandum.
And as the pleadings were vague and windy
His Lordship ordered memorials hinc inde.

3

We setting a stout heart to a stay brae
Took into the cause Mr. David Rae :§

* Traditions of Edinburgh, vol. II. p. 158.

† Wight.—Alexander Wight, Esquire, an eminent barrister of the period, and author of a learned treatise on the election law. A work which, although almost professionally useless since the passing of the Reform Bill, is still valuable for its historical information, and amusing from its detail of political squabbles.

‡ Baillie.—William Baillie, afterwards Lord Polkemmet, an indifferent counsel, and still more indifferent judge.

§ Rae.—David, afterwards Lord Eskgrove, and Lord Justice-Clerk. He was subsequently made a Baronet. He was the son of a nonjuring clergyman, and father of the Right Honourable Sir William Rae, Bart. M. P. for the county of Bute, and many years Lord Advocate of Scotland.

Lord Auchinleck* however repelled our defence,
And over and above decerned for expence.

4

However, of our cause not being asham'd,
Unto the whole Lords we straightway reclaim'd;
And our petition was appointed to be seen,
Because it was drawn by Robie M'Queen.†

5

The answer by Lockhart‡ himself it was wrote,
And in it no argument or fact was forgot;
He is the lawyer that from no clause will flinch,
And on this occasion divided the bench.

6

Alemoor§ the judgment as illegal blames,
'Tis equity, you bitch, replies my Lord Kames;‖

* Auchinleck.—Boswell's father, a Judge of the Court of Session.

† M'Queen.—Better known afterwards as Lord Braxfield.

‡ Lockhart.—Alexander Lockhart, Lord Covington, a very distinguished lawyer.

§ Alemoor.—Thomas Pringle called to the bench in 1759,—died 1776.

‖ Kames.—Lord Kames's use of the epithet mentioned in the text was notorious; whether in his own house, in the house of a friend, or on the bench, it was always slipping out. Once when on the circuit, his Lordship had been dozing on the bench, a noise created by the entrance of a new pannel, woke him, and he enquired what the matter was, Oh! its a woman, my Lord, accused of child murder,—" and a weel farred b——h too," muttered his Lordship, loud enough to be heard by those present. Kames had a great taste for convictions, and it was alleged, used every effort to procure them. Once he had the satisfaction of convicting and sentencing two unfortunate wretches to be hanged. At the Circuit dinner he was in capital spirits, boasting, " he had killed two birds that day."

His Lordship was sometimes addicted to what is in modern parlance termed quizzing; and being in Perth upon the Circuit, he was one day walking across the bridge, where a toll-bar had just been put up, and met Hamilton the Professor of Mathematics at Aberdeen, (uncle of the well-known Bishop Horsley), who was a very stupid looking man; his Lordship not knowing him, thought this a capital chance for a banter. He stopped him and asked, " pray my good man, what would be the toll for a carriage and six? The Professor told him. Next he enquired what the toll for a carriage and four? Next what was the toll

This cause, cries Hailes,* to judge I can't pretend,
For justice, I see, wants an *e* at the end.

7

Lord Coalston† expressed his doubts and his fears,
And Strichen‡ then in his weel weels and O dears;
This cause much resembles that of M'Harg,
And should go the same way says Lordy Barjarg.§

8

Let me tell you my Lords this cause is no joke;
Says with a horse laugh my Lord Elliock,||

for a horse? All which queries were politely and separately answered. "Now Sir, pray what may be the toll for an ass?" "If your Lordship will take the trouble of passing thro' the toll, the keeper will inform you." Saying so, the Professor made a low bow and walked away, leaving the learned Lord far from comfortable. As, however, Kames relished a good thing, he took occasion after dinner to tell the story, praising the wit of the supposed idiot, when some one asked for a description of this clever fool, and having got it, he astonished the judge by telling him that this imagined natural was one of the cleverest men in Scotland, and the then Professor of Mathematics in the University of Aberdeen. His Lordship immediately expressed a wish to be introduced, and subsequently he and the Professor became very intimate.

* Hailes.—Sir David Dalrymple, Bart. one of the most upright and accomplished Judges that ever sat on the Scotish Bench. The annals of Scotland for the first time placed the early history of his native country on something like a solid foundation. He was remarkably critical and very severe on any omission or verbal inaccuracies in the papers before him.

† Coalston.—George Brown of Coalston, in the county of Haddington, appointed a Judge, 1756,—died 1776. The Earl of Dalhousie, by the recent demise of his mother, is now in possession of the estate of Coalston, which she inherited from her father the Judge.

‡ Strichen.—Alexander Fraser of Strichen, raised to the Bench 5th June 1730, and appointed a Lord of Justiciary 1736. His Lordship married Ann, Countess of Bute, in 1731, and by his Lady had one son, Alexander, whose grandson, Thomas Alexander, ultimately succeeded by a destination in the entail, to the Lovat estates, and was, in 1837, created a British Peer by the title of Lord Lovat. Lord Strichen died 15th February 1775.

§ Barjarg.—James Erskine, who subsequently changed his title, as a Lord of Session, to Alva,—he was very diminutive in stature. He died in 1796.

|| Elliock.—James Veitch, made a Judge of the Court of Session in 1761. He died in 1793. He owed his elevation to the Bench more to his political influence than to his legal talents.

To have read all the papers I pretend not to brag,
Says my Lord Gardenstone* with a snuff and a wag.

9

Up rose the President† and an angry man was he,
To alter this judgement I never can agree;
The east wing said yes, and the west wing cried not,
And it carried adhere by my Lord's casting vote.

10

This cause being somewhat knotty and perplext,
Their Lordships not knowing how they'd determine next;
And as the session was to rise so soon,
They superseded extract till the 12th of June.

PART SECOND.

1

Having lost it, so now we prepare for the summer,
And on the 12th of June presented a reclaimer;
But dreading a refuse, we gave Dundas‡ a fee,
And though it run nigh, it was carried to see.

2

In order to bring aid from usage bygone,
The answers were drawn by quondam Mess John;§
He united with such art our law with the civil,
That the counsel, on both sides, would have seen him to the devil.

* Gardenstone.—Francis Garden became a Judge in 1764. He died in 1793. He was a clever but eccentric person, not overburdened with judicial wisdom.

† President.—Robert Dundas, Esq. Lord President.

‡ Dundas.—Henry, first Viscount Melville.

§ Mess John.—John Erskine of Carnock, author of the Institute of the Law of Scotland.

3

The cause being called, my Lord Justice-Clerk,*
With all due respect, began a loud bark;
He appeal'd to his conscience, his heart, and from thence,
Concluded to alter, but to give no expense.

4

Lord Stonefield,† unwilling his judgment to podder,
Or to be anticipate agreed with his brother;
But Monboddo‡ was clear the bill to enforce,
Because, he observed, t'was the price of a horse.

5

Says Pitfour§ with a wink and his hat all a'gee,
I remember a case in the year twenty-three,
The magistrates of Banff contra Robert Carr,
I remember well, I was then at the bar.

6

Likewise my Lords in the case of Peter Caw,
Superflua non nocent was found to be law:
Lord Kennet|| also quoted the case of one Lithgow
Where a penalty in a bill was held *pro non scripto.*

7

Lord President brought his chair to the plum,
Laid hold of the bench and brought forward his bum:

* Justice-Clerk.—Sir Thomas Miller of Glenlee, Bart. He was, upon the death of President Dundas, raised to the Presidency, (1788.) His Lordship held this high appointment but a short time, as he died in September 1789. He was the father of Lord Glenlee.

† Stonefield.—John Campbell, who became a Judge of the Court of Session, and took that title.

‡ Monboddo.—James Burnet, Esq. appointed 1767,—died 1799.

§ Pitfour.—James Ferguson of Pitfour raised to the Bench 1764,—died 1777. His eyesight was weak, in consequence of which he always wore his hat on the Bench.

|| Kennet.—Robert Bruce of Kennet, appointed a Judge 1764,—died 1785.

In these answers, my Lords, some freedoms have been used
Which I could point out, provided I chus'd.

8

I was for this interlocutor, my Lords I admit,
But am open to conviction as long's I here do sit;
To oppose your precedents I quote you some cases,
But Tait* a priori hurried up the causes.

9

He prov'd it as clear as the sun in the sky
That their maxims of law could not here apply,
That the writing in question was neither bill nor band,
But something unknown in the law of the land.

10

The question adhere or alter, being put,
It carried to alter by a casting vote:
Baillie then mov'd.—In the bill there's a raze,
But by this time their Lordships had called a new cause.

VIII.

THE FACULTY GARLAND.

From a printed broadside dated 1785, said to have been composed on occasion of the application of Mr. John Pattison, to be admitted a Member of the Faculty of Advocates.†

TUNE—*The old woman of Grimstone.*

Ye orators all,
Attend to my call,
Lest ye suffer a Jewish dispersion;
The Faculty, (sure,
To keep themselves pure,)
To rogues have ta'en up an aversion.

* Tait.—Alexander Tait, Clerk of Session.

† Mr. John Pattison, son of the Rev. Mr. John Pattison, Minister of the Gospel in Edinburgh, was admitted Advocate 27th January 1787.

To wander about,
In a dirty black clout,
Tho' none are the fools to employ them;
They reckon of late
Privileges so great,
That they do not wish more to enjoy them.

The Advocates met,
The point to debate,
Upon this, so important occasion;
Knaves, Writers, and fools,
To bar by such rules,
As will not admit of evasion.

The first, I've heard say,
Who spoke, was C[harle]s Hay,*—
And this was the lawyer's beginning;
Writers' prentices here
Should never appear,
Nor people who wear dirty linen.

H[enr]y E[rskin]e,† I'm told,
Thought the candidate old,
If twenty and five they were past;
Tho' orator Tom,‡
Should a midshipman roam,
And not be a lawyer at last.

Says Bob, ‖ since 'tis true,
I, at twenty and two,

* Afterwards Lord Newton. He had, previously to passing Advocate, served an apprenticeship.

† Dean of Faculty at one time, and Lord Advocate during the Whig Administration.

‡ His brother; afterwards Lord Chancellor.

‖ Robert Dundas, Esq. Solicitor-General, then Lord Advocate, and finally Lord Chief Baron of Exchequer, which office he held till his death. He was a very amiable man.

Was Solicitor-General designed,
And in office could thrive;
It is plain twenty-five
Is old age—and decay of the mind.

Quoth sweet William Charles,*
We can't admit carles
Who keep company blackguard and low;
Had the Justice e'er been
With a gentleman seen,
It had been a most singular show.

Says J[ami]e C[olquhou]n,†
We'll degenerate soon,
If we do not watch over the forum;
Reformers and thieves
Will soon be sherives,
And buy up the causes before 'em.

Says old M'[Intos]h,‡
If we bring in such trash,

* William Charles Little, Esq. who was alleged not to have been very select in his society, and not over scrupulous as a Justice of the Peace.

† Sir James Colquhoun, Bart. of Luss, Principal Clerk of Session, and Sheriff of Dumbartonshire. He was one of the odd characters of the time, and was much teazed by the wags of the Parliament House. On one occasion whilst Henry Erskine was at the Inner-House Bar during the advising of some important case, he amused himself by making faces at Sir James, who was sitting at the clerk's table, beneath the Judges,—his victim was much annoyed at the strange conduct of the tormenting lawyer, and unable to bear it, disturbed the gravity of the Court, by rising and exclaiming, "My Lord, My Lord, I wish you "would speak to Harry, he's aye making faces at me,"—Harry, however, looked as grave as a judge. Peace ensued, and the advising went on, when Sir James casting his eyes towards the bar, witnessed a new grimace from his tormentor, and convulsed Bench, Bar, and Audience by roaring out "there, there, my Lord, "see he's at it again." Sir James, notwithstanding his simplicity in ordinary matters, had much worldly wisdom, for no one knew better how to take care of his money than he did.

‡ Robert Macintosh, Esq. an eminent lawyer; he had been a writer in the country, and was much employed in election cases.

Without either kin, or connections:
Country Procu'tors next,
Will be Advocates fixt,
And then play the rogue at elections.

The chief thing, says C[orbe]t,*—
Oh! I cannot absorb it,—
Illiterate fellows to ask in:
I'm affraid we shall see
People take our degree,
With no other knowledge than Erskine.

With additional scouring
In his mouth, J[oh]n M'[Lauri]n,†
His sentiments thus did portray:—
Contemptuous looks,
Bawdy poems,‡ or books,
Should bar up the candidate's way.

Honest plain I[sla]y C[ampbel]l,‖
Who likes every sham ill,
No quibblers I'll have, he did say;
For they never will stick,
By cheat, lie, or trick,
To wrest the just cause the wrong way.

Says bluff R[ober]t B[lai]r,§
With a fierce haughty stare,

* Robert Corbet, Esq. afterwards Solicitor for Teinds; his father was Provost of Dumfries. He was a good lawyer, and for many years a most popular pleader in the General Assembly.

† Afterwards Lord Dreghorn.

‡ This is allusive to a poem entitled the Keekiad, written upon a domestic incident that occurred in the family of Mr. Jollie, a respectable Edinburgh tailor.

‖ Afterwards Lord President. He was created a Baronet upon leaving the Bench.

§ Son of the Author of the Grave, and Lord President of the Court of Session.

All the pride of the church in his eyes,—
Let us keep away all
The Divinity Hall,
And those who religion despise.

Young Small Trash the third,*
Now put in a word,
To shew them John Bruce's† fine logic;
He swore by the wig,
That made him look big,
He'd have nobody grave, stiff, or tragic.‡

Great H[enr]y D[unda]s,‖
He no turncoat was,—
(Tho' many did think it a gibe,—)
That would shift wind, and veer,
Like the vane on a spire,
To the offerer of the best bribe.

Quoth the lean demon Hugo,§
Since to make new laws you go,
Out, out of the Faculty close 'em;
Whose malicious heart,
In dark corner apart,
Can dictate a *carmen famosum.*

Says rumbling S[inclai]r,¶
With a voice like a tinkler,

* Charles Hope, Esq. now Lord President of the Court of Session.

† This gentleman obtained the office of King's Printer, besides the easy appointment of Keeper of the State Paper Office. He died some years since, leaving an immense fortune, now inherited by Mrs. Tindall Bruce.

‡ Mr. Bruce had great merit in his pupil, for there is not a Judge in the Court of Session who delivers an opinion more logically, or with more dignity, than the now venerable individual referred to.

‖ Lord Advocate, but better known as the first Viscount Melville.

§ Hugo Arnot, Esq. of Balcormo, author of the History of Edinburgh, see page 64.

¶ Robert Sinclair, Esq. afterwards a principal Clerk of Session. He died 9th September 1802.

To enter great care we should take;
First, none but whose tone is
All soft and harmonious;
Next, none with a spice of the rake.

But Bumbo,* the sour,
By a fiat of power,
Has clagg'd up the fools empty mouths;
To mutter none dare on't,
For an Act of Sederunt
Must settle the point for the Youths.

IX.

DIRECTIONS TO WRITERS' APPRENTICES.

To the Editor of the Edinburgh Magazine, 1788.

SIR,

It has been wittily said, that it is not more true that every man is born *in sin*, than that he is born *in criticism*; and indeed, whoever attentively considers the manners and spirit of the present age, will discover a variety of illustrations in support of the truth of this aphorism. Hence the *reformation in the internal government of the royal boroughs*, and *the incomparable blacking for the shoes*; the performances of *Mrs. Siddons*, as well as the very facetious and high-flavoured jokes of *Mr. Humphreys the equestrian clown*, have all of them been handled with a becoming gravity, and the respective merits of each fairly and critically discussed, by certain ingenious gentlemen, to whose recondite labours the public are unspeakably indebted.

In compliance with the advice given by Sallust, in his exordium to the history of Catiline's conspiracy, I am desirous of *not passing my life in silence*, and therefore I have, for

* Robert Dundas, Lord President.

some time past, turned my attention to the composition of a treatise, which I call *Directions to certain members of the College of Justice*, and which I fondly flatter myself will hand down my name to posterity, along with those *Quique sui memores alios fecere merendo.*

Of this stupendous work I now present you with a specimen. I have, you will observe, begun with the seedlings in this great forest, and mean to proceed progressively upwards, till I comprehend the timber trees. This plan I have adopted as the most simple, and at the same time the most methodical; for you will perceive, that it embraces "the general camp, pioneers and all," *ab ovo usque ad mala.* Without further preface therefore, I submit to your readers my *Chapter first*, containing

Directions to Writers' Apprentices

Quæque ipse miserrima vidi
Et quorum pars magna fui.

When your master gives you a paper to copy, if you should observe, in going through it, any repetitions or tautologies, of which your business will furnish you with many examples, you need not, if you are in a hurry to go out to any of your cronies, be at the trouble of copying all these, for such redundancies of expression are of no sort of use, except in increasing the expence to your master's clients, and they will thank you for omitting them.

When your master has drawn a paper, (if he is able to draw one,* and given it to you to make a fair copy of, cor-

* In olden times, unlike these more stirring days when intellect is so discursive, some stray agents might be found who were not peculiarly distinguished for their attainments, and who sometimes could not, as here anticipated, "draw" a paper. One of these, a worthy commonly yclept black John F———, who had a capital business, and who left a good fortune behind him—in which last particular he did not resemble many of his successors—was impressed with the idea (in consequence perhaps of his having the preceding evening been somewhat ex-

rect such passages as you think wrong, and expunge such old fashioned phrases as he may have made use of, and which you dislike. This will shew your master that you are a clever fellow, and besides, two heads are better than one. Indeed it is fifty to one, that your master is a very stupid animal, and of course he must be much obliged to you for polishing his works, and making them common grammar, or common sense.

If your master sends you with a card to any person of which you are desired to bring the answer, by no means go with it yourself, but send either a porter* or your master's

cited, or as he himself expressed it, having "felt a commotion" whilst witnessing the performance of Mrs. Siddons in the character of Isabella, a delineation which after some hesitation, when the curtain dropped, he was inclined to think was a tragic not a comic one),—that his powers were equal to the preparation of a petition for the appointment of a factor. His clerk was summoned, pens, ink, and paper, placed before him, and the process of "dictation" commenced.—"Unto the Right Honourable," "Right Honourable" quoth the clerk,—"the "Lords of Council and Session," "Session," continued the scribe, "the petition "of Alexander Macdonald, tenant in Sky," "Sky," "humbly sheweth," "shew-"eth."—Stop John, read what you've said "yes sir,—Unto the Right Honourable "the Lords of Council and Session, the petition of Alexander Macdonald, tenant "in Sky, humbly sheweth," very well John, very well. Where did you stop? "Humbly sheweth," that the petitioner," "petitioner,"—here a pause for a minute, "That the petitioner," "its down sir." Here the master got up—walked about the room,—scratched his head,—took snuff,—but in vain,—the inspiration had fled with the mysterious word "petitioner." The clerk looked up, somewhat amazed that his master had even got that length; and at last ventured to suggest that perhaps the difficulty might be got over,—"how John," exclaimed his master eagerly? "As you have done the most important part, what would you say Sir, to send the paper, to be finished, to Mr. Macgrugar, with a guinea? "The very thing John,—tak the paper to Macgrugar, and as we have done "the maist fickle part of the work, he's deevilish weell off wi a guinea."

* This advice has sometimes been adopted, at least one instance might be cited where it was followed. A gentleman, afterwards well known in the profession, who subsequently settled in London, and who is still alive, had been bound apprentice to a respectable writer to the signet of the old school, who was no great admirer of modern puppyism. The youth was deemed, or rather deemed himself a very fine sort of person, and the idea of carrying papers was revolting to his feelings. One evening the master rang the bell, and the apprentice was desired to take a very small parcel of papers to a professional gentleman, whose residence was not far distant, the packet was received in

servant; and surely it is much more for your honour as well as that of your master, though he should be obliged to keep a couple of servants, than that you should be employed like a *Cadie.* But if in any case you *must* go with a card, leave it at the house, and come off that instant, without waiting for the answer.

If your master desires you to carry papers in a bag to a Judge's house, absolutely refuse it. This will show your master that you are a young gentleman of spirit, and that you are not to be affronted. Let old *Hocus* trudge away with his bags himself. As to your carrying your master's great coat when he happens to be out at night, and which I remember to have been the custom, it is needless to say any thing, as this abominable practice is now universally exploded!

Contrive to get acquainted with young gentlemen of taste about town, who by frequenting billiard-tables, cock-matches, stables, and other places of polite amusement, have acquired a knowledge of the world and of life.* This will hinder your parts from rusting, which is very likely to happen if you sit constantly slaving in your master's office.

If you can scrape an acquaintance with any bookseller's clerk, it may not be amiss that you spend two or three hours

silence,—not a word was said. A minute had hardly elapsed when the master saw a porter run hastily across the street, apparently to the office. This induced some suspicion of his errand,—which was verified by shortly seeing the young man issue forth from the office followed by the porter. Seizing his hat the master followed, and overtaking the latter, relieved him of his burden. He then followed in the rear of his apprentice, who, of course, thought it beneath his dignity to look round. At last the place of destination was reached,—the door bell was rang with violence, "here fellow," quoth the youth, "give me the parcel," slipping sixpence into his hand; but without condescending to look at him, "here it is for you," exclaimed the supposed porter,—the voice struck the young gentleman, and his astonishment and confusion may be imagined when he beheld his master. In place of scolding him, the old gentleman contented himself with using the very powerful weapon of ridicule, and with such effect, as the apprentice afterwards candidly avowed, that in future he resolved not to be above his business.

* This recommendation has met with due attention in modern days, and has led to a great improvement both in the mind and morals of the rising generation of youthful writers.

a day in the shop. Every writer's apprentice is, *de jure*, a member of the republic of letters, (I do not mean *Signet* letters) and such places enjoy a prescriptive right of engrossing a considerable portion of your time. Gay, speaking of the shop of one of these midwives of the muses, has observed long ago that,

> "How sauntering 'prentices o'er Otway weep,
> "O'er Congreve smile, or over *Erskine* sleep."

Never be a whole day together at your desk, but go out now and then and take a walk for your amusement, to a tennis court, or a game or two at billiards. This will be an agreeable, rational, and indeed a necessary relaxation from the dull plodding in your master's office.

If your parents can afford it, or whether they can afford it or no, by all means dress yourself like a cornet of dragoons. Have your hair done at least *once* a-day in the most fashionable and approved manner, and let no consideration whatever prevent you from being completely dressed before you come to your master's office about mid-day. Your master is as able to work as you are, and if he chooses to be at his desk by six in the morning, why not? but it would be very improper in you to disturb his family at so early an hour.

Take care to let your master be obliged to send all over the town in quest of you two or three times a-week, and sometimes as often in a day, to attend what he calls your duty in the office. This will show your acquaintances that your master is an honest fellow, and that you and he are more upon the footing of companions, than that of master and apprentice.

When your master challenges you for any little neglect, such as forgetting to put his letters into the post-office for two or three nights, or the like, you may look as surly at him as you please, but I advise you, for your own sake, not to make any reply, at least while the hot fit is on him; for if your master should happen to be a choleric hasty fellow

you have a chance of getting your head broke. I remember once, to have myself got a most inhuman drubbing for saying, as I thought, a smart thing to my master upon such an occasion.

Endeavour to conceal as much as possible, your being bound apprentice to a writer; for, to say the truth, all business is below a gentleman of any spirit; and when the world sees you strolling about the country, with a fowling-piece on your shoulder and a pointer at your heels, they will never suspect that you mean to work for your bread; they will naturally conclude, either that you are a gentleman of considerable landed property, or that you have gained a capital prize in the last state lottery, or that *somebody* has left you *something somewhere;* and in either of these cases, depend upon it, you will be treated by strangers with much respect. The profession of an attorney too, you will recollect, is far from being popular, and this is an additional motive for your concealing, with some adroitness, your connection with it. Pope, you know, has said,

> " Boastful and rough, your *first* son is a 'squire,
> " The *next* a tradesman, meek, and much a liar.
> " *Tom* struts a soldier, honest, bold, and brave;
> " *Will* sneaks a scrivener, an exceeding knave."

If you get a paper from your master which he wants copied in a hurry, lay it down deliberately on your desk, and after taking a pinch of snuff, take up a law book, if there should be one in the office, and read, or pretend to read half a dozen pages: for the improvement of your mind is surely an object of much greater importance than the copying, it may be, of some very foolish paper.

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lemnity, and as slow as if you were going to be hanged. For why should you run the risk of catching a fever, by overheating yourself merely to oblige your master? besides, this behaviour of yours will teach him in future to be more orderly and timeous with his papers in a morning, and order is absolutely requisite in carrying on business.

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X.

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Written by the Honourable Henry Erskine.

The Scriptures assure us much may be forgiven
To flesh and to blood, by the mercy of heaven;
But I've searched all the books, and texts I find none
That extend such forgiveness to skin and to bone.*

* Hugo was so attenuated as to be almost a walking skeleton,—had he [illegible]ved till the year 1825, he might have proved a formidable rival to the living ske[illegible]ton of that period. One day he was eating a split dried haddock, commonly ca[illegible]d a spelding, when the reputed author of these lines came in,—"You see," says Hugo, "I am not starving," "I must own," observed Henry Erskine, "that you are very like your meat."

XI.

SONG,

INTENDED TO HAVE BEEN SUNG BETWEEN THE ACTS OF A PLAY, (ACTED BY PARTICULAR DESIRE OF THE DEAN AND FACULTY OF ADVOCATES), IN THE CHARACTER OF A LAWYER, January 1770.

From a Volume of MS. in the Library of the Faculty of Advocates, written by the Hon. Henry Erskine, and said to have been corrected by himself.

1

The Bards of all ages have made it their theme
To sing of the merits, and blazon the fame
Of other professions, and praise them at random
Of *lawyers* I sing, and make you *avizandum*.
Derry down, &c.

2

Tho' partial, I'll give you a *representation*
Of the good and the ill, we bestow on the nation.
Our use is so certain, there is no denying'nt,
If any one doubts it, he ne'er was a client.

3

Extraordinary actions belong to the great,—
The soldier, the patriot, or premier of state;
But we, unconnected with party or faction,
Spend our time and our breath on an *ordinary* action.

4

Altho' with our virtues, some faults may *conjoin*,
The *process* is *short* that can make us repine;
For whoe'er be the Judge that decides on our blame,
If he gives it against us, we're sure to *reclaim*.

5

5

Tho' peaceable folks, yet we often *petition*,
Tho' not like our neighbours stirred up by sedition,
So just are both *houses*, that when we're refused,
We *petition* again, nor think justice abus'd.

6

To the fair, the delight and the joy of creation,
We're tender and faithful without affectation;
And while to investigate, truth is our duty,
Can *find* nought in them, but love, honour, and beau[illegible]

7

To other professions, old age is a ruin,
Unfits them for *action*, is a certain undoing;
We scorn to conceal it, like old maids and beaux,
A lawyer's the better the older he grows.

8

All mankind beside live in terror for death,
And with fear and unwillingness yield their last breath
But a lawyer is happy, by labour hard toil'd,
When his *suit's* at an end, and he's fairly *assoil'd*.

9

On the whole, we submit to your righteous *decision*,
Having stated the *law* and the *fact* with precision;
And we crave, that in *ranking* professions you'll find,
If not *pari passu*, we're not far behind.

XII.

ODE OF SAPPHO PARODIED.

Addressed to the Earl of [Kelly], the celebrated bon vivant and Musical Composer, by the Hon. H. Erskine, from the MS. previously noticed.

Drunk as a Dragon, sure is he
The youth that dines, or sups with thee

Who hears and sees thee full of fun,—
Loudly laugh and quaintly pun.
T'was this first made me love my dose,
And raised such pimples on my nose.
For while I fill'd to every toast,
My cares were gone—my senses lost:
I felt the claret and champagne
Inflame my blood, and mad my brain.
My toast fell, faultring from my tongue,
I scarcely heard the catch I sung,—
I felt my gorge with sickness rise,
The candles danced before my eyes,—
My sight grew dim, the room turn'd round,
I tumbl'd senseless on the ground.

XIII.

PATRICK O'CONNOR'S ADVICE TO HENRY M'GRAUGH, WHO WAS SENTENCED BY THE MAGISTRATES OF EDINBURGH TO BE WHIP'T THROUGH THE TOWN FOR EATING AT TAVERNS, AND NOT PAYING.—August 1774.

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Arrah! Harry M'Graugh, very cruel your fate is
To be whipt thro' the town, 'cause you love to dine gratis.
By my shoul, my dear jewel, if such be their due,
Who love a good dinner, for nothing, like you,

Some folks I could name of no little renown,
Before you, might walk by your side thro' the town.
Yet here, even here, you might spunge a good dinner,
Without being thought so egregious a sinner.
But the method you took, will not pass in this city
As at home: By St. Patrick, the more is the pity.
Then learn from the Bailie that sous'd you the way
To eat and to drink, yet have nothing to pay:
Like him be made Counsellor, Deacon or Baillie,
And as politics go,—What the devil's to ail ye?
Then each day you may guzzle, at the city's expence,
Without Crosbie* or Boswell† to plead your defence.
If you can't my dear creature, to Ireland be gone,
For the Magistrates here hate all rogues but their own.

XIV.

EPITAPH ON CHARLES HAY, ESQUIRE, ADVOCATE, WHO LIE TERRED UNDER THE BOWLING GREEN IN HERIOT'S GARDI

By the Hon. Henry Erskine, from the MS. previously noticed.

No more to shine in bowling, or in law,
No more of Papers, or of *casts*, to *draw*,
Beneath his fav'rite turf, ah! well-a-day,
Lies the *dead length* of honest Charlie Hay.
What, tho' from natures hand *deliver'd fair*
And *wide* of every *rub* from want or care,

* Andrew Crosbie, Esquire, a Barrister of great eminence. He is said the prototype of Councellor Pleydel in Guy Mannering. He was ruined, many others, by the failure of the Ayr Bank, and died in such poverty in 1 that his widow was under the necessity of applying for relief to the Facu Advocates, from whom she obtained an annual allowance of £50. Befor death, Mr. Crosbie appears to have projected a work on the duties of Ju of the Peace, as an advertisement to that effect appeared in the Advertiser N paper February 16th 1785. His Library, in which "besides Classics, Hi "&c. there is a large collection of books in the Roman and Civil Law" w vertised for sale by auction at "Hay's Vendue Warehouse, back of the G "Edinburgh," on Monday the 4th of July 1785.

† James Boswell, Esquire.

By envious death ta'en up, here *short* he lies,
And craves a tear from every Bowler's eyes.

Whoe'er thou art that haunt'st this verdant spot,
Oh! learn his virtues whilst thou mourn'st his lot.
In the few *Ends* of life poor Charlie *play'd,*
No *narrow* thought his social bosom sway'd,
Alike in bus'ness, and in pleasure keen,
True to the Bar as to the Bowling-green;
Still did his heart with anxious *biass* bend,
To save his client, and assist his friend.

In every social scene he took the *lead,*
And *skipp'd* with kindness o'er each friend's misdeed;
If e'er himself fell *short,* by this sad stone
Learn his Amendment now, for he is *gone.*
Short is the *game* of life, and quickly o'er,
Even when the *party* play'd is up three score,
How hard the *stroke* then, when but just begun,
To robe thee, Hay, of life, and us of fun!

E'er on the ill kept turf of Herriot's green,
Another bowler shall like thee be seen,
Bowls shall no longer feel their *biassd side,*
And J——nie T——n shall forget to *ride;*
Still in the *Bank* the short bowls shall be found,
And those that reach the *Bank* shall *block the ground.*
And Woods bare green, tho' roll'd and mow'd each day,
Shall, from thy *bones,* produce a crop of *Hay.*

you have a chance of getting your head broke. I remember once, to have myself got a most inhuman drubbing for saying, as I thought, a smart thing to my master upon such an occasion.

Endeavour to conceal as much as possible, your being bound apprentice to a writer; for, to say the truth, all business is below a gentleman of any spirit; and when the world sees you strolling about the country, with a fowling-piece on your shoulder and a pointer at your heels, they will never suspect that you mean to work for your bread; they will naturally conclude, either that you are a gentleman of considerable landed property, or that you have gained a capital prize in the last state lottery, or that *somebody* has left you *something somewhere;* and in either of these cases, depend upon it, you will be treated by strangers with much respect. The profession of an attorney too, you will recollect, is far from being popular, and this is an additional motive for your concealing, with some adroitness, your connection with it. Pope, you know, has said,

> " Boastful and rough, your *first* son is a 'squire,
> " The *next* a tradesman, meek, and much a liar.
> " *Tom* struts a soldier, honest, bold, and brave;
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If you get a paper from your master which he wants copied in a hurry, lay it down deliberately on your desk, and after taking a pinch of snuff, take up a law book, if there should be one in the office, and read, or pretend to read half a dozen pages: for the improvement of your mind is surely an object of much greater importance than the copying, it may be, of some very foolish paper.

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To eat and to drink, yet have nothing to pay:
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And *wide* of every *rub* from want or care,

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In the few *Ends* of life poor Charlie *play'd,*
No *narrow* thought his social bosom sway'd,
Alike in bus'ness, and in pleasure keen,
True to the Bar as to the Bowling-green;
Still did his heart with anxious *biass* bend,
To save his client, and assist his friend.

In every social scene he took the *lead,*
And *skipp'd* with kindness o'er each friend's misdeed;
If e'er himself fell *short,* by this sad stone
Learn his Amendment now, for he is *gone.*
Short is the *game* of life, and quickly o'er,
Even when the *party* play'd is up three score,
How hard the *stroke* then, when but just begun,
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where you will be perfectly safe from any irruption of the *Mahrattas.*

One word more, and I have done. If a letter is left in the office for your master, observe if you think it is from a woman. If you do, endeavour to pry into it, and follow the same rule with all letters going from your master to any lady, and which may pass thro' your hands. It has been both said and sung, that "*'Tis woman that seduces all mankind;*" and as you are bound by your indenture to defend your master's good name, and to prevent as much as in your power, any injury to his character or fortune, you cannot render him a more essential service, than by preventing him from forming improper intimacies with the sex, for such connections often lead a man to ruin.

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X.

EPIGRAM ON THE LATE HUGO ARNOT, ESQ. ADVOCATE.

Written by the Honourable Henry Erskine.

The Scriptures assure us much may be forgiven
To flesh and to blood, by the mercy of heaven;
But I've searched all the books, and texts I find none
That extend such forgiveness to skin and to bone.*

* Hugo was so attenuated as to be almost a walking skeleton,—had he lived till the year 1825, he might have proved a formidable rival to the living skeleton of that period. One day he was eating a split dried haddock, commonly called a spelding, when the reputed author of these lines came in,—"You see," says Hugo, "I am not starving," "I must own," observed Henry Erskine, "that you are very like your meat."

XI.

SONG,

INTENDED TO HAVE BEEN SUNG BETWEEN THE ACTS OF A PLAY, (ACTED BY PARTICULAR DESIRE OF THE DEAN AND FACULTY OF ADVOCATES), IN THE CHARACTER OF A LAWYER, —January 1770.

From a Volume of MS. in the Library of the Faculty of Advocates, written by the Hon. Henry Erskine, and said to have been corrected by himself.

1

The Bards of all ages have made it their theme
To sing of the merits, and blazon the fame
Of other professions, and praise them at random
Of *lawyers* I sing, and make you *avizandum.*
Derry down, &c.

2

Tho' partial, I'll give you a *representation*
Of the good and the ill, we bestow on the nation.
Our use is so certain, there is no denying'nt,
If any one doubts it, he ne'er was a client.

3

Extraordinary actions belong to the great,—
The soldier, the patriot, or premier of state;
But we, unconnected with party or faction,
Spend our time and our breath on an *ordinary* action.

4

Altho' with our virtues, some faults may *conjoin,*
The *process* is *short* that can make us repine;
For whoe'er be the Judge that decides on our blame,
If he gives it against us, we're sure to *reclaim.*

5

5

Tho' peaceable folks, yet we often *petition*,
Tho' not like our neighbours stirred up by sedition,
So just are both *houses*, that when we're refused,
We *petition* again, nor think justice abus'd.

6

To the fair, the delight and the joy of creation,
We're tender and faithful without affectation;
And while to investigate, truth is our duty,
Can *find* nought in them, but love, honour, and beau

7

To other professions, old age is a ruin,
Unfits them for *action*, is a certain undoing;
We scorn to conceal it, like old maids and beaux,
A lawyer's the better the older he grows.

8

All mankind beside live in terror for death,
And with fear and unwillingness yield their last bre
But a lawyer is happy, by labour hard toil'd,
When his *suit's* at an end, and he's fairly *assoil'd*.

9

On the whole, we submit to your righteous *decision*,
Having stated the *law* and the *fact* with precision;
And we crave, that in *ranking* professions you'll find
If not *pari passu*, we're not far behind.

XII.

ODE OF SAPPHO PARODIED.

Addressed to the Earl of [Kelly], the celebrated bon vivant and M
Composer, by the Hon. H. Erskine, from the MS. previously noti

Drunk as a Dragon, sure is he
The youth that dines, or sups with thee

Who hears and sees thee full of fun,—
Loudly laugh and quaintly pun.
T'was this first made me love my dose,
And raised such pimples on my nose.
For while I fill'd to every toast,
My cares were gone—my senses lost:
I felt the claret and champagne
Inflame my blood, and mad my brain.
My toast fell, faultring from my tongue,
I scarcely heard the catch I sung,—
I felt my gorge with sickness rise,
The candles danced before my eyes,—
My sight grew dim, the room turn'd round,
I tumbl'd senseless on the ground.

XIII.

PATRICK O'CONNOR'S ADVICE TO HENRY M'GRAUGH, WHO WAS SENTENCED BY THE MAGISTRATES OF EDINBURGH TO BE WHIP'T THROUGH THE TOWN FOR EATING AT TAVERNS, AND NOT PAYING.—August 1774.

From Mr. Erskine's MS. Poems previously noticed.

In the Edinburgh Evening Courant, 31st August 1774, there occurs this notice relative to this unfortunate eater, who seems, like the redoubtable Dando of modern days, to have been the terror of Tavern-Keepers.—"This day, one Henry Macgraugh (an Irishman) was publickly whipt thro' this city, and afterwards remitted to prison for three months, pursuant to a sentence of the Magistrates. This fellow has been in the practice of imposing upon the inhabitants, by going into Taverns, calling for victuals and drink, and afterwards informing the people he had no money to pay for them. He had three times been taken before the Magistrates for these practices; the first and second time he was dismissed on promises of good behaviour, and leaving the place; but finding him altogether incorrigible, the Magistrates were at last induced to pass the above sentence."

Arrah! Harry M'Graugh, very cruel your fate is
To be whipt thro' the town, 'cause you love to dine gratis.
By my shoul, my dear jewel, if such be their due,
Who love a good dinner, for nothing, like you,

Some folks I could name of no little renown,
Before you, might walk by your side thro' the town.
Yet here, even here, you might spunge a good dinner,
Without being thought so egregious a sinner.
But the method you took, will not pass in this city
As at home: By St. Patrick, the more is the pity.
Then learn from the Bailie that sous'd you the way
To eat and to drink, yet have nothing to pay:
Like him be made Counsellor, Deacon or Baillie,
And as politics go,—What the devil's to ail ye?
Then each day you may guzzle, at the city's expence,
Without Crosbie* or Boswell† to plead your defence.
If you can't my dear creature, to Ireland be gone,
For the Magistrates here hate all rogues but their own.

XIV.

EPITAPH ON CHARLES HAY, ESQUIRE, ADVOCATE, WHO LIE TERRED UNDER THE BOWLING GREEN IN HERIOT'S GARD.

By the Hon. Henry Erskine, from the MS. previously noticed.

No more to shine in bowling, or in law,
No more of Papers, or of *casts*, to *draw*,
Beneath his fav'rite turf, ah! well-a-day,
Lies the *dead length* of honest Charlie Hay.
What, tho' from natures hand *deliver'd fair*
And *wide* of every *rub* from want or care,

* Andrew Crosbie, Esquire, a Barrister of great eminence. He is said t the prototype of Councellor Pleydel in Guy Mannering. He was ruined, many others, by the failure of the Ayr Bank, and died in such poverty in 1 that his widow was under the necessity of applying for relief to the Facul Advocates, from whom she obtained an annual allowance of £50. Befor death, Mr. Crosbie appears to have projected a work on the duties of Ju of the Peace, as an advertisement to that effect appeared in the Advertiser N paper February 16th 1785. His Library, in which "besides Classics, His "&c. there is a large collection of books in the Roman and Civil Law" wa vertised for sale by auction at "Hay's Vendue Warehouse, back of the G "Edinburgh," on Monday the 4th of July 1785.

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By envious death ta'en up, here *short* he lies,
And craves a tear from every Bowler's eyes.

Whoe'er thou art that haunt'st this verdant spot,
Oh! learn his virtues whilst thou mourn'st his lot.
In the few *Ends* of life poor Charlie *play'd*,
No *narrow* thought his social bosom sway'd,
Alike in bus'ness, and in pleasure keen,
True to the Bar as to the Bowling-green;
Still did his heart with anxious *biass* bend,
To save his client, and assist his friend.

In every social scene he took the *lead*,
And *skipp'd* with kindness o'er each friend's misdeed;
If e'er himself fell *short*, by this sad stone
Learn his Amendment now, for he is *gone*.
Short is the *game* of life, and quickly o'er,
Even when the *party* play'd is up three score,
How hard the *stroke* then, when but just begun,
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E'er on the ill kept turf of Herriot's green,
Another bowler shall like thee be seen,
Bowls shall no longer feel their *biassd side*,
And J——nie T——n shall forget to *ride*;
Still in the *Bank* the short bowls shall be found,
And those that reach the *Bank* shall *block the ground*.
And Woods bare green, tho' roll'd and mow'd each day,
Shall, from thy *bones*, produce a crop of *Hay*.

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Endeavour to conceal as much as possible, your being bound apprentice to a writer; for, to say the truth, all business is below a gentleman of any spirit; and when the world sees you strolling about the country, with a fowling-piece on your shoulder and a pointer at your heels, they will never suspect that you mean to work for your bread; they will naturally conclude, either that you are a gentleman of considerable landed property, or that you have gained a capital prize in the last state lottery, or that *somebody* has left you *something somewhere;* and in either of these cases, depend upon it, you will be treated by strangers with much respect. The profession of an attorney too, you will recollect, is far from being popular, and this is an additional motive for your concealing, with some adroitness, your connection with it. Pope, you know, has said,

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Altho' with our virtues, some faults may *conjoin,*
The *process* is *short* that can make us *repine;*
For whoe'er be the Judge that decides *on our blame,*
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Unfits them for *action*, is a certain undoing;
We scorn to conceal it, like old maids and beaux,
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But a lawyer is happy, by labour hard toil'd,
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The youth that dines, or sups with thee

Who hears and sees thee full of fun,—
Loudly laugh and quaintly pun.
T'was this first made me love my dose,
And raised such pimples on my nose.
For while I fill'd to every toast,
My cares were gone—my senses lost:
I felt the claret and champagne
Inflame my blood, and mad my brain.
My toast fell, faultring from my tongue,
I scarcely heard the catch I sung,—
I felt my gorge with sickness rise,
The candles danced before my eyes,—
My sight grew dim, the room turn'd round,
I tumbl'd senseless on the ground.

XIII.

PATRICK O'CONNOR'S ADVICE TO HENRY M'GRAUGH, WHO WAS SENTENCED BY THE MAGISTRATES OF EDINBURGH TO BE WHIP'T THROUGH THE TOWN FOR EATING AT TAVERNS, AND NOT PAYING.—August 1774.

From Mr. Erskine's MS. Poems previously noticed.

In the Edinburgh Evening Courant, 31st August 1774, there occurs this notice relative to this unfortunate eater, who seems, like the redoubtable Dando of modern days, to have been the terror of Tavern-Keepers.—"This day, one Henry Macgraugh (an Irishman) was publickly whipt thro' this city, and afterwards remitted to prison for three months, pursuant to a sentence of the Magistrates. This fellow has been in the practice of imposing upon the inhabitants, by going into Taverns, calling for victuals and drink, and afterwards informing the people he had no money to pay for them. He had three times been taken before the Magistrates for these practices; the first and second time he was dismissed on promises of good behaviour, and leaving the place; but finding him altogether incorrigible, the Magistrates were at last induced to pass the above sentence."

Arrah! Harry M'Graugh, very cruel your fate is
To be whipt thro' the town, 'cause you love to dine gratis.
By my shoul, my dear jewel, if such be their due,
Who love a good dinner, for nothing, like you,

Some folks I could name of no little renown,
Before you, might walk by your side thro' the town.
Yet here, even here, you might spunge a good dinner,
Without being thought so egregious a sinner.
But the method you took, will not pass in this city
As at home: By St. Patrick, the more is the pity.
Then learn from the Bailie that sous'd you the way
To eat and to drink, yet have nothing to pay:
Like him be made Counsellor, Deacon or Baillie,
And as politics go,—What the devil's to ail ye?
Then each day you may guzzle, at the city's expence,
Without Crosbie* or Boswell† to plead your defence.
If you can't my dear creature, to Ireland be gone,
For the Magistrates here hate all rogues but their own.

XIV.

EPITAPH ON CHARLES HAY, ESQUIRE, ADVOCATE, WHO LIES [illegible]IN-TERRED UNDER THE BOWLING GREEN IN HERIOT'S GARDE[illegible]N.

By the Hon. Henry Erskine, from the MS. previously noticed.

No more to shine in bowling, or in law,
No more of Papers, or of *casts*, to *draw*,
Beneath his fav'rite turf, ah! well-a-day,
Lies the *dead length* of honest Charlie Hay.
What, tho' from natures hand *deliver'd fair*
And *wide* of every *rub* from want or care,

* Andrew Crosbie, Esquire, a Barrister of great eminence. He is said to be the prototype of Councellor Pleydel in Guy Mannering. He was ruined, like many others, by the failure of the Ayr Bank, and died in such poverty in 17[illegible]5, that his widow was under the necessity of applying for relief to the Faculty of Advocates, from whom she obtained an annual allowance of £50. Before his death, Mr. Crosbie appears to have projected a work on the duties of Justices of the Peace, as an advertisement to that effect appeared in the Advertiser Newspaper February 16th 1785. His Library, in which "besides Classics, History, &c. there is a large collection of books in the Roman and Civil Law" was advertised for sale by auction at "Hay's Vendue Warehouse, back of the Guard, Edinburgh," on Monday the 4th of July 1785.

† James Boswell, Esquire.

By envious death ta'en up, here *short* he lies,
And craves a tear from every Bowler's eyes.

Whoe'er thou art that haunt'st this verdant spot,
Oh ! learn his virtues whilst thou mourn'st his lot.
In the few *Ends* of life poor Charlie *play'd*,
No *narrow* thought his social bosom sway'd,
Alike in bus'ness, and in pleasure keen,
True to the Bar as to the Bowling-green ;
Still did his heart with anxious *biass* bend,
To save his client, and assist his friend.

In every social scene he took the *lead*,
And *skipp'd* with kindness o'er each friend's misdeed ;
If e'er himself fell *short*, by this sad stone
Learn his Amendment now, for he is *gone*.
Short is the *game* of life, and quickly o'er,
Even when the *party* play'd is up three score,
How hard the *stroke* then, when but just begun,
To robe thee, Hay, of life, and us of fun !

E'er on the ill kept turf of Herriot's green,
Another bowler shall like thee be seen,
Bowls shall no longer feel their *biassd side*,
And J——nie T——n shall forget to *ride* ;
Still in the *Bank* the short bowls shall be found,
And those that reach the *Bank* shall *block the ground*.
And Woods bare green, tho' roll'd and mow'd each day,
Shall, from thy *bones*, produce a crop of *Hay*.

XV.

NOTES TAKEN AT ADVISING THE ACTION OF DEFAMATION AND DAMAGES. ALEXANDER CUNNINGHAM, JEWELLER, EDINBURGH, AGAINST MR. JAMES RUSSELL, SURGEON THERE.

This jeu d'esprit is generally understood,—indeed we believe there can be no doubt on the subject,—to have been written by George Cranstoun, Esquire, afterwards Lord Corehouse, whose recent retirement from the seat of justice has been deeply regretted by the legal profession,—in truth it is a loss that cannot easily be repaired. It was printed in the Scots Magazine several years since, from whence it was transferred to the "Literary Gems," and subsequently to Kay's Edinburgh Portraits, vol. ii, p. 384, as a very appropriate illustration of the last sitting of "the old Court of Session." It is there very properly described as a satire replete with "humour without rancour," and as happily imitating "the overlaid phraseology of Lord Bannatyne,—the predeliction for Latin quotation of Lord Meadowbank,—the brisk manner of Lord Hermand,—the anti-gallic prejudices of Lord Craig,—the broad dialects of Lords Polkemmet and Balmuto, and the inveterate hesitation of Lord Methven."

LORD PRESIDENT.

Your Lordships have the petition of Alexander Cunningham against Lord Bannatyne's interlocutor.* It is a case of defamation and damages, for calling the petitioner's Diamond Beetle an Egyptian Louse. You have the Lord Ordinary's interlocutor on page 29 and 30 of the petition. "Having "considered the correspondence of the pursuer, answers for "defender," and so on, "Finds, in respect that it is not alledged "that the diamonds on the back of the Beetle are real dia-"monds, or any thing but shining spots, such as are found "on other diamond beetles, and which likewise occur, al-"though in a smaller number, on a greater number of other "beetles somewhat different from the beetle libelled, similar "to which there may be beetles in Egypt with shining spots "on their backs, which may be termed *lice there*, and may "be different, not only from the common louse, but from "the louse mentioned by Moses as one of the plagues of

* The interlocutors of Lord Bannatyne were remarkable for being involved and complicated; he was, however, a good lawyer, and very excellent man.

" Egypt, and which is admitted to be a filthy troublesome
" louse, even worse than the said louse, which is clearly
" different from the louse libelled; but the other louse is
" the same with, or similar to the said beetle, which is also
" the same with the other beetle; and although different
" from the said beetle libelled, yet, as the said beetle is simi-
" lar to the other beetle, and the said louse to the said beetle,
" and the said beetle to the other louse libelled, and the said
" louse to the other beetle, which is the same with, or simi-
" lar to the beetle, which somewhat resembles the beetle
" libelled; assoilzies the defender, and finds expences due."
Say away my Lords.

LORD MEADOWBANK.

This is a very difficult and puzzling question, my Lords. I have formed no decided opinion, but, at present, I am rather inclined to think the interlocutor is right, though not upon the *ratio* assigned in it. It appears to me there are two points for consideration:—First, Whether the words libelled amount to a *convicium* against the Beetle. Secondly, Admitting the *convicium*, whether the pursuer is entitled to found upon it in this action. Now, my Lords, if there be a *convicium* at all, it consists of the *comparatio*, or comparison of the *scarabæus* or beetle with the Egyptian *pediculus* or louse. My first doubt regards this point; but it is not at all founded on what the defender alleges, that there is no such animal as the Egyptian *pediculus in rerum naturâ;* for though it does not actually exist, *it may possibly exist:* and whether its existence is in *esse* or *posse*, is the same thing for this question, provided there be *termini habiles* for ascertaining what it would be *if it did exist.* But my doubt is here. How am I to discover what is the *essentia* of any louse, whether Egyptian or not? It would be very easy to describe its accidents as a Naturalist would do, (it is a mistake to say that it belongs to the *asteria*, for that is a little, yellow, greedy, filthy despicable reptile;) but we do not learn from this

what the *proprium* of the animal is in a logical sense, and still less what is its *differentia*. Now, without these, it is impossible to judge whether there is a *convicium* or not, for, in a case of this kind, which, *sequitur naturam delicti*, we must take them *meliori sensu*, and presume the *comparatio* to be in *melioribus tantum*. And I here beg that the parties, and the Bar in general,—

LORD HERMAND.* (Interrupting.)

Your Lordship should address yourself to the Chair.

LORD MEADOWBANK, (resuming.)

I say my Lord, I beg it may be understood, that I do not rest my opinion upon the ground that *veritas convicii excusat*; I am clear that, although the beetle actually was an Egyptian *pediculus*, it would afford no relevant difference, providing the calling of it so was a *convicium*, and there my doubt lies. With regard to the second point, I am satisfied that the *scarabæus*, or beetle itself, has not *persona standi in judicio*, and therefore the pursuer cannot insist in the name of the *scarabæus*, or for his behoof. If the action lies at all, it must be at the instance of the pursuer himself, as the *verus dominus* of the *scarabæus*, for being calumniated through the *convicium* directed primarily against the animal standing in that relation to him. Now, abstracting from the qualification of an actual *dominium* which is not alleged, I have great doubt whether a mere *convicium* is necessarily transmitted from one object to another, through the relation of a *dominium* subsisting between them, and if not necessarily transmissible, we must see the principles of its actual transmission here, and that has not yet been pointed out.

* Lord Hermand, who had a personal dislike to his brother Judge, used to interrupt him upon all occasions, and some scenes are yet recollected amusing enough, but not exactly calculated for exhibition in a Court of Justice. Hermand was uniformly the aggressor—"Macer," quoth Meadowbank, in the course of his speech one day—"Open that window." A few minutes had barely elapsed, when taking advantage of a pause, Hermand roared out, "Macer, shut "that window." Then came an order to shut,—then to open, and so on, to the infinite amusement of the Bar, but horror of the Bench. After the separation of the Court into Divisions, these scenes were put an end to, by Lord Hermand being placed in the First, and Lord Meadowbank in the Second Division.

when the extravagance of a younger brother exceeded that of the elder, they used to call it his *Gestio pro hærede*, as you will see in the law books, when you come to divert yourself with the civil law.

During the whole period of your apprenticeship, go out regularly to drink tea every afternoon, without missing it so much as once, and stay about two hours, till your master has raised the *hue and cry* after you, which is perhaps better. This will show your master that you have not been bred up like a country booby, without getting tea in the afternoon. Besides, tea is of a refreshing, sedative, and aromatic quality, and the chit-chat of the ladies extremely alluring, after your drudging, perhaps for near half an hour, in your master's office. Whatever hints your master may have given you from time to time, about this same tea-drinking business, take no notice of them. The only danger to be apprehended indeed, is his getting into a horrible unchristian passion some night, and perhaps, with divers profane oaths, absolutely prohibiting tea *in all time to come*, under severe and exemplary penalties. In such a case, it is difficult how to advise you, but I think your best plan would be, immediately upon this, to throw up your master's service altogether, and to ship yourself off directly for the East Indies, where tea is in great abundance, both Bohea and Green, and where you must very soon make a fortune. The expence of the passage is indeed considerable, and consequently may be inconvenient, but I have known some of our brethren very ingeniously surmount this obstacle, by getting themselves entered as convicts, and by which means you pay not a farthing; on the contrary, every thing necessary, either for your back or belly, is most plentifully administered and supplied. If, however, you have taken any private disgust at the proceedings of Messrs. Hyder Ally and Tippo Saib, or perhaps conceived some foolish prejudice at the *Black Hole* of Calcutta, you may easily, by *passing your trials*, qualify yourself for a birth in the steerage in the next *Botany Bay* fleet, and

a native Egyptian,—a race of men who, after degenerating for many centuries, have sunk at last into the abyss of depravity, in consequence of having been subjugated a time by the French. I do not find that Turgot or Condorcet or the rest of the Economists ever reckoned the combings of the head a specious of productive labour. I conclude, therefore, that wherever French principles have been propagated, lice grew to an immoderate size, especially in a warm climate like that of Egypt. I shall only add that we ought to be sensible of the blessing we enjoy under a free and happy constitution where lice and men live under the restraint of equal laws, the only equality that can exist in a well regulated state.

LORD POLKEMMET.

It should be observed, my Lord, that what is called a Beetle, is a reptile very well known in this country. I have seen mony ane o' them on Drumshorlie Moor. It is a little black beasty about the size of my thumb nail. The country people ca' them clocks, and I believe they ca' them also maggy wi' the mony feet, but this is not the least like ony louse ever I saw, so that in my opinion, though the defender may have made a blunder through ignorance in comparing them, there does not seem to have been any *animus injuriandi*. Therefore, I am for refusing the petition, my Lords.

LORD BALMUTO.

Am* for refusing the petition. There is more lice than beetles in Fife, they call beetles clocks there. I thought when I read the Petition that the Beetle or Bittle had been the thing that women have when they are washing towels or napery with, and things for dadding them with, and I see the

* This word was uniformly pronounced by his Lordship, *aum*. Lord Balmuto, though a worthy man, was not exactly the beau ideal of a judge. He and Hermand were amongst the last of the old school, and many judicial exhibitions of these individuals were infinitely more amusing than even the drolleries of a Lance, or the fun of a Grimaldi.

Petitioner is a Jeweller till his trade, and I thought he had made one of these Bittles, and set it all round with Diamonds, and I thought it a foolish and extravagant idea, and I can see no resemblance it could have to a louse. But I find I was mistaken my Lord, and I find its only a Beetle Clock the Petitioner has, but my opinion's the same it was before. I say, my Lord, I am for refusing the Petition, I say.

LORD WOODHOUSELEE.*

There is a case abridged in the third Volume of the Dictionary of Decisions, Chalmers *v.* Douglas, in which it was found that *veritas convicii excusat*, which may be rendered more literally, but in a free and spirited manner according to the most approved principles of translation, "the truth of a "calumny affords a relevant defence." If, therefore, it be the law of Scotland, which I am clearly of opinion it is, that the truth of a calumny affords a relevant defence, and if it be likewise that the Diamond Beetle is really an Egyptian Louse, I am rather inclined to conclude, (tho' certainly the case is attended with difficulty,) that the Defender ought to be assoilzied. Refuse.

LORD JUSTICE-CLERK, (RAE.)

I am very well acquainted with the Defender in this action, and have respect for him, and esteem him likewise. I know him to be a skilful and expert Surgeon, and also a good man, and I would do a great deal to serve him, or be of use to him if I had it in my power to do so, but I think on this occasion he has spoken rashly, and I fear foolishly and improperly. I hope he had no bad intention. I am sure he had not. But the Petitioner, (for whom I have also a great respect, because I knew his father who was a respectable baker in Edinburgh, and supplied my family with bread,

* Author of the Memoirs of Lord Kames, Essay on the Life and Writings of Petrarch, Essay on the Principles of Translation, &c.

and very good bread it was, and for which his accounts were regularly discharged,) has a Clock or a Beetle, I think it is called a Diamond Beetle, which he is very fond of, and has a fancy for, and the Defender has compared it to a louse, or a bug, or a flea, or some thing of that kind, with a view to render it despicable and ridiculous, and the Petitioner so likewise, as the owner of it. It is said that the beast is a louse in fact, and that the *veritas convicii excusat*, and mention is made of the case of Chalmers and Douglas.* I have always a great veneration for the decisions of your Lordships, and I am sure will always continue to have while I sit here, but that case was determined by a very small majority, and I have heard your Lordships mention it on vari-

* See a report of the case, Fac. Collection, February 22, 1785. It was an action brought by Mrs. Elizabeth Chalmers, widow of Archibald Scott, surgeon in Musselburgh, against Helen Douglas, the spouse of James Baillie, Esquire, of Olivebank, for defamation. From the evidence adduced, it was clearly established, that Mrs. Baillie had, at various times, and at various places, accused Mrs. Scott of incontinence, and the question came to be, whether a proof of the truth of the allegation was allowable. The Commissaries found it was not, but the judgment was altered by the Court, and it was held that Mrs. Baillie should be allowed a proof of all such averments as clearly involved guilt, but that, *in hoc statu*, it would be unjust to allow evidence to be taken of trifling or equivocal incidents, although such might eventually be received to fill up the measure of evidence. Mrs. Baillie gave in a condescendence, which contained some very singular averments. One of the allegations, Article 10th, offered to be proved, is too curious to be overlooked; it is as follows.—" The common people of Scotland entertained a foolish idea, that a pudding or haggies put among boiling water will burst, unless the name of *cuckold* is pronounced at the time of its immersion. Now, the defender offers to prove, that so strong and so general was the understanding of the common people in Musselburgh and its neighbourhood, that the name of Doctor Scott had originally acquired, and continued to preserve this virtue, by the conduct of the pursuer, that down to the day of his death, it was invoked by the good house-wives of that neighbourhood, when in the course of domestic economy a haggies or pudding happened to be boiled." This, and various other allegations, having been rejected by the Court, and the proof limited to actual acts of incontinency, Mrs. Baillie appealed, but the judgment of the Court below was affirmed, 6th April 1785. After some further litigation, Mrs. Baillie was found liable in damages and expenses, which was just what she deserved. The case excited great interest at the time, from the parties being well known in Edinburgh.

ous occasions, and you have always desiderated the propriety of it, and I think have departed from it in some instances. I remember the circumstances of the case well. Helen Chalmers lived in Musselburgh, and the Defender, Mrs. Baillie, lived in Fisherrow, and at that time there was much intercourse between the genteel inhabitants of Musselburgh and Fisherrow, and Inveresk, and likewise Newbigging, and there were balls and dances or assemblies every fortnight, and also sometimes, I believe, every week, and there were likewise card assemblies once a fortnight or oftener, and the young folk danced there also, and others played at cards, and there were various refreshments such as tea or coffee, and butter and bread, and I believe, but I am not certain, porter and negus, and likewise small beer, and it was at one of these assemblies that Mrs. Baillie called Mrs. Chalmers a whore or an adultress, and said she had lain with Commissioner Cardonnel,* a gentleman whom I knew very well at one time, and had a great respect for,—he is dead many years ago,—and Mrs. Chalmers brought an action of defamation against her before the Commissioners, and it came by advocation into this Court, and your Lordship allowed a proof of the *veritas convicii*, and it lasted a long time, and in the end answered no good purpose even to the Defender herself, while it did much harm to the character of the Pursuer. I am, therefore, for refusing such a proof in this case, and I think the Petitioner and his Beetle have been slandered, and the Petition ought to be seen.

LORD METHVEN.

If I understand the Interlocutor, it is not said that the

* Mansfield Cardonnel, Esquire, one of the Commissioners of the Customs, who had a residence in Musselburgh. He was a married man at the period of the alleged intercourse, which was represented as having taken place so far back as the year 1748. This gentleman is said to have been the father of Adam Cardonnel, Esq. known to the Scotish Antiquary as the author of a series of descriptions of ancient buildings in Scotland, illustrated by etchings, and who afterwards succeeded to an estate in the north of England, and changed his name to Lawson.

Some folks I could name of no little renown,
Before you, might walk by your side thro' the town.
Yet here, even here, you might spunge a good dinner,
Without being thought so egregious a sinner.
But the method you took, will not pass in this city
As at home: By St. Patrick, the more is the pity.
Then learn from the Bailie that sous'd you the way
To eat and to drink, yet have nothing to pay:
Like him be made Counsellor, Deacon or Baillie,
And as politics go,—What the devil's to ail ye?
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If you can't my dear creature, to Ireland be gone,
For the Magistrates here hate all rogues but their own.

XIV.

EPITAPH ON CHARLES HAY, ESQUIRE, ADVOCATE, WHO LIES INTERRED UNDER THE BOWLING GREEN IN HERIOT'S GARDEN.

By the Hon. Henry Erskine, from the MS. previously noticed.

No more to shine in bowling, or in law,
No more of Papers, or of *casts*, to *draw*,
Beneath his fav'rite turf, ah! well-a-day,
Lies the *dead length* of honest Charlie Hay.
What, tho' from natures hand *deliver'd fair*
And *wide* of every *rub* from want or care,

* Andrew Crosbie, Esquire, a Barrister of great eminence. He is said to be the prototype of Councellor Pleydel in Guy Mannering. He was ruined, like many others, by the failure of the Ayr Bank, and died in such poverty in 1785, that his widow was under the necessity of applying for relief to the Faculty of Advocates, from whom she obtained an annual allowance of £50. Before his death, Mr. Crosbie appears to have projected a work on the duties of Justices of the Peace, as an advertisement to that effect appeared in the Advertiser Newspaper February 16th 1785. His Library, in which "besides Classics, History, "&c. there is a large collection of books in the Roman and Civil Law" was advertised for sale by auction at "Hay's Vendue Warehouse, back of the Guard, "Edinburgh," on Monday the 4th of July 1785.

† James Boswell, Esquire.

By envious death ta'en up, here *short* he lies,
And craves a tear from every Bowler's eyes.

Whoe'er thou art that haunt'st this verdant spot,
Oh! learn his virtues whilst thou mourn'st his lot.
In the few *Ends* of life poor Charlie *play'd*,
No *narrow* thought his social bosom sway'd,
Alike in bus'ness, and in pleasure keen,
True to the Bar as to the Bowling-green;
Still did his heart with anxious *biass* bend,
To save his client, and assist his friend.

In every social scene he took the *lead*,
And *skipp'd* with kindness o'er each friend's misdeed;
If e'er himself fell *short*, by this sad stone
Learn his Amendment now, for he is *gone*.
Short is the *game* of life, and quickly o'er,
Even when the *party* play'd is up three score,
How hard the *stroke* then, when but just begun,
To robe thee, Hay, of life, and us of fun!

E'er on the ill kept turf of Herriot's green,
Another bowler shall like thee be seen,
Bowls shall no longer feel their *biassd side*,
And J——nie T——n shall forget to *ride*;
Still in the *Bank* the short bowls shall be found,
And those that reach the *Bank* shall *block the ground*.
And Woods bare green, tho' roll'd and mow'd each day,
Shall, from thy *bones*, produce a crop of *Hay*.

with houses, and if two lovers had an *assignation* there, it would soon be *intimated* all over the country.

Tertio, As to the islands,—*Vicar's* Island spoils the effect of the rest, for it is covered with *corn fields*, which are certainly out of place there, *corn* being *parsonage*, and not *vicarage*. Forbes on Teinds, p. 39. Not to mention that its banks are quite deformed by Mr. Pocklington's fortifications, l. 1, § 6. *De ripa monien*, &c.

Lastly, It is impossible to enter Borrowdale with *personal security*, from the *suspension* of loose rocks which are constantly tumbling down, so that few travellers have *orderly proceeded* to the top of it, whatever *diligence* they may have used. Besides, the *wad* mines are in lease, and therefore form a proper *wadset*, which has nothing to do with the lake.

With regard to the *authorities* cited, the organist Avison was an *inferior judge*, and not competent to decide the question, being in the special service of the Bishop of Durham, and proceeding to Carlisle *in a retour*.

Replied for Kyswick. The fertility of Vicar's Island is in its favour, and the beauty of the scene will be increased *quantum locupletior facta*, while the islands of Ullswater are *denuded*, not only of trees, but of grass, and even the goats on them have been allowed a separate aliment. Mr. Pocklington's buildings have done no harm *et domum suam reficere unicuique licet*, l. 61, d. *De reg.* besides they are *nova opera*, which will look better when the lime is blackened by the weather.

Duplied for Ullswater.—It will never improve, *quod ab initio vitiosum*, &c.

The travellers preferred Kyswick by their first interlocutor, but a second bottle being presented and discussed, they could *see* no difference between them, and *found accordingly*.

XVII.

LITERARY INTELLIGENCE EXTRAORDINARY.

Proposals for publishing by subscription, a new, elegant, and splendid edition of the Decisions of the Court of Session on the plan of, but greatly superior to, the celebrated editions of Shakespeare, Milton, Hume, and Thomson.

CONDITIONS.

1. This work will be comprised in one hundred volumes huge folio, at the moderate price, to subscribers, of fifty guineas each volume, and as only 20,000 copies are meant to be thrown off, the price to non-subscribers will probably be greatly raised.

2. It will be printed on a superfine wire-wove double atlas paper, about 5 feet long, by 3 feet broad, made on purpose, and with an elegant new silver type, cast for the occasion, and never to be used again.

3. It will be ornamented with five hundred most exquisite copperplates of the subjects expressed in the work, nicely chosen, painted by the first-rate artists, and engraven by the most eminent masters.

4. The first volume will contain the form of process, beginning from the first rudiments of the business, and advancing to the final consummation in the victory of our party, and the mortification of the other.

5. Every separate decision will be adorned with a vignette, descriptive of the subject, and a tail-piece exhibiting the consequences of the determination to the contending parties.

6. When the book is finished, all the pictures painted for the work will be given to the public in the following manner:—The Parliament House will be stuck as full of them as it can hold.—Part of the remainder will be sent to the Council Chamber, and part to ornament the walls of the new

Bridewell, and to furnish to the inhabitants proper lessons of distributive justice.

To the Public.

The rapid progress of Scotland in some of the Fine Arts has long been evident, but hitherto our proficiency in engraving and printing has not been altogether so publicly manifested as many patriotic North Britons could have wished. The present publication will, it is hoped, exhibit to all the world such proofs of the taste, genius, and refinement of Caledonians, as must leave at an immense distance every puny competitor. The splendid publications of a neighbouring nation have been mostly confined to works of amusement,—in this we claim the honour of blending the *utile* with the *dulce*. Of the eminence of the artists to be employed, the public may be satisfied upon the words of the publishers. Of the subjects to be selected, they will judge for themselves from the following specimen of a few, and let the connoisseurs decide, whether they are not equally calculated to enforce and illustrate the ideas of the work, as those introduced into the new editions of Shakspeare and Hume.

1. A superb frontispiece, the idea taken from Æsop, the monkey deciding the property of an oyster, by giving each competitor a shell, and taking the meat for his own part.

2. An affecting representation of a bar-keeper shutting the outer-house door in the face of a writer's clerk, who has not paid him the dues.

3. Three lawyer's clerks boxing petitions.

4. A judge retiring to the water-closet.

5. A picturesque view of a lawyer putting on his gown, and adjusting his wig.

6. A spirited sketch of the macer calling silence.

7. Young writers examining the suspension rolls.

8. Outer-house hearings interrupted by the ringing of the inner-house bell.

These are a few of the subjects of the plates intended to enrich this invaluable work. The public may be assured, that all the others are selected with equal taste, and exhibit subjects not less striking and interesting than those now specified.

XVIII.

SONG,

BY WILLIAM ERSKINE, ESQ. ADVOCATE.

William Erskine, afterwards Lord Kinneder, was the son of the Reverend William Erskine, Minister of Muthil,—he was admitted Advocate in 1790, was appointed Sheriff-Depute of Orkney 6th June 1809, and promoted to the Bench, on the resignation of Lord Balmuto, on the 29th January 1822;—he died on the 14th of August following;—he was the intimate friend of Sir Walter Scott, and author of several small poems, amongst which are Supplementary Verses to Collins' Ode on the Superstitions of the Highlands, which possess great poetical merit.

1.

O say not Cynthia, maid divine!
That vain our vows must ever prove,
That far from thee I still must pine,
For fortune is the foe of love,
And blissful dreams and visions bright.
Ah! yield not to the fiend despair,
Nor dash with shades of deepest night,
The scenes our fancy form'd so fair.
Far, far from hollow splendor flee,
And live with innocence and me.

2.

Come, view the vale, my peerless maid,
Where lost to all but thee I dwell,
Where nature's beauties deck the shade
That hides thy lover's lowly cell.

See, peace, the cherub, wanders here,
See, independence guards my store,
And truth, and hope, and love are here,—
My Cynthia can'st thou wish for more?
Then haste from hollow splendor flee,
And dwell with innocence and me.

XVIII.

PARODY ON THE PRECEDING,

BY GEORGE CRANSTON, ESQ. LORD COREHOUSE.

1.

O say not William, youth divine,
In vain your company I seek,
That far from me to-day you dine,
Tho' you were ask'd on Thursday week.
Your leisure hours, your eves of rest,
O give not to some stupid drone,
Nor be the dull Dunsinnan's* guest,
For you had better yawn alone.
Far, far from Lords of Session flee,
And dine with Thomson,† and with me.

* Sir William Nairn, Bart. Lord Dunsinnan,—his Lordship was admitted advocate 11th March 1755, made a Lord of Session 9th March 1786, and of Justiciary, 24th December 1792. He resigned the latter appointment in 1808, the former in 1809, and died at Dunsinnan House on the 20th of March 1811. He was uncle of the celebrated Katherine Nairn, who was convicted, 14th August 1768, of being art and part guilty with her brother-in-law, Lieutenant Patrick Ogilvie, of the murder of her husband, Thomas Ogilvie of Eastmiln, as also of an incestuous intercourse with her said brother-in-law. She, (by her uncle's assistance, as was reported,) escaped from prison, and thus avoided the gallows; but her paramour was executed. In a Magazine for 1777 she is said to have taken refuge in a Convent at Lisle, "a sincere penitent."

† Thomas Thomson, Esq. Deputy-Clerk-Register, and one of the Principal Clerks of Session.

2.

Come, view the meal, my peerless blade,
Which Annie's gentle cares afford,
Two chickens from the Cowgate head,
To grace your George's simple board,—
And peas,—the pudding crowns my cheer,—
Potatoes purchas'd at the door,
And greens, and tarts, and ham, are here,—
My William can'st thou wish for more?
Then haste, from Lords of Session flee,
And dine with Thomson and with me.

XIX.

VERSES

TO GEORGE PACKWOOD, ESQ. BY GEORGE CRANSTON, ESQ. LORD COREHOUSE.

The Barber's Song.

Packwood's Paste, Sir, and Strop,
I adopt in my shop;
Hunting razors come as pat as they can:
Mark well the Cutler's fears,
When tailors whet their sheers
On Packwood's razor strop—he's your man!

What says the Cutler? "Humphry, lay aside the stone, this new invention may save us trouble of grinding." The counting-house penknife, whetted on one of Packwood's strops, will experience a positive proof of their superior excellence, and give a keen edge to a razor, to shave to admiration. Hunting razors secured with a guard, to prevent cutting. To prove their safety a gentleman has shaved with one of them on horseback,—an acquisition to timid shavers, or those troubled with a nervous complaint; Price £2, 12s. 6d. The razors are sold by Mr. Packwood, London, and Mr. Raeburn, Edinburgh, &c. &c.

Packwood was the inventor of a well-known strop for sharpening razors. Like the Warrens and Rowlands of the present day, the newspapers teemed with his puffs. He is said to have kept in his pay a poet, to chaunt his praises and sing poems in honour of the immortal strop. In 1796, he published a collected edition of these invaluable *morceaux*, under the title of "Pack-

wood's Whim,—the Goldfinch's nest, or the Way to get Money and be Happy," containing a copious collection of his diverting advertisements, with useful observations, &c. to which he prefixed his portrait. Of the merits of this now *rare* production, one or two specimens may suffice.—

EXTEMPORE,

On Packwood's Razor Strop.

Sans doubte, Mr. Packwood, your elegant Strops,
Are the best that e'er mortal invented:
We have nothing to do but to lather our chops,
The razor soon makes us contented.

Surely Magic herself has been lending her aid,
To assist in the brilliant invention;
And the fam'd composition you also have made,
Should assuredly gain you a pension.

PACKWOOD'S CONUNDRUMS.

Why is Packwood's paste unlike the stocks?
Because it never falls, but always rises in the public opinion.

Why is Packwood's shop unlike the present lottery?
Because every purchaser draws a prize.

ELECTIONEERING INTELLIGENCE.

George Packwood, Esq. we hear, is returned for the County of Strop, with very little opposition.

Manhood's honors on my chin,
Always rough, and tough, and black, would
Agonize my tender skin,
Till I'd heard of peerless Packwood.

O how terrible to shave!
How it put me to the rack would,
I would soon have seen my grave,
Had not heaven created Packwood.

Barbers of celebrity,
At my visage hew and hack would,
Like a great church bible, I
Was adorn'd with cuts, my Packwood.

Torture me their razors blunt,—
Torture worse their ceaseless clack would,—

Hence, for other victims hunt,
I dismiss you,—thanks to Packwood.

Oft a ragged knife, whose edge
Cut no better than its back would,
On my honor's sacred pledge,
I have strop'd on strop of Packwood.

Every notch and knob I soon
Grind away so smooth and smack would,—
E're you said Jack Robinson,
Synagogues would shave, my Packwood.

Thou hast publish'd odes divine;
Not the verses of Balzac would
Bear to be compar'd with thine,
Author of the Whim of Packwood.

O that Calcott, since he has
At composing glees a knack, would
Two sopranos and a bass,
Set to poetry of Packwood.

Though his trio, it is true,
Sold by Mr. Cahusac, would
Never please the beardless crew
Of Haymarket squeakers, Packwood.

Village maids who toss the hay,
Village youths who rear the stack, would
Pour to you the jocund lay,
Kiss facilitating Packwood.

Courted and carress'd no more,
Poor George Hanger tread thy track would,
George, self-gibbeted before,*
Tries to cut his throat with Packwood.

* George Hanger afterwards Lord Coleraine, in Ireland, a favourite of George whilst Prince of Wales.—He published a life of himself, 2 vols. Lond. 1803, to which he prefixed his own effigy, hanging from a gibbet,—a pictorial illustration of the family name.

Who can trust his mucilage,
Trust his leather never crack would,
George's wit has lost its edge,
Crack'd his credit is my Packwood.

Envy, hissing from her cave,
Thy immortal fame attack would,
Thou her snaky head shall shave,
With a whetted razor, Packwood.

Stung with rage and jealousy,
Scandalize thee many a quack would;
Never heed these fellows I
For a moment will, my Packwood.

Handbills they disperse, but then
They are useful when we ——— would,
Or to wipe a razor clean
Whetted on the strop of Packwood.

One Macdonald, or Macduff,
Or some other Highland Mac, would
Pawn upon the world his stuff,
For the genuine paste of Packwood.

Were the Irish venders here,
How they soundly thump and thwack would;
We have no shilelahs here,
Scots are peaceful people, Packwood.

Pat has fury, Sawney skill,
Of the two the first I lack would;
Don't you think a lawsuit will
Do his business better, Packwood.

Raeburn* begs that by the mail,
Of your strops you send a sack would,

* Raeburn, a principal perfumer in Edinburgh.

Brisk and brisker grows the sale
Every day, illustrious Packwood.

Fill a bumper to the brim,
I of Nantz or Cogniac would
Pledge you three times three to him,
Who employs the strop of Packwood.

(To the Editor of the Morning Post.)

Stanzas from a grateful Bard,
Please insert in praise of Packwood.
I am, Sir, with due regard,
Your most obedient servant,—JACK WOOD.

XX.

HELVELLYN,

BY SIR WALTER SCOTT, BART.

In the notice prefixed to this poem in Scott's Poetical Works, vol. 6, p. 370, New Edition, 12mo, it is stated, that "in the spring of 1805, a young gentleman of talent and amiable disposition, perished, by losing his way in the Mountain Hellvellyn. His remains were not discovered till three months afterwards, when they were found guarded by a faithful terrier bitch, his constant attendant during frequent solitary rambles through the wilds of Cumberland and Westmoreland." The name of this unfortunate youth is not given; but in a note on a copy in manuscript, it is said to have been Charles Gough.

1

I climb'd the dark brow of the mighty Helvellyn,
Lakes and mountains beneath me gleam'd misty and wide;
All was still, save by fits, when the eagle was yelling,
And starting around me, the echoes replied.
On the right, Striden-edge round the Red-Tarn was bending,
And Catchedicam its left verge was defending,
One huge nameless rock in the front was ascending,
When I mark'd the sad spot where the wanderer had died.

2

Dark green was that spot mid the brown mountain-heather,
Where the Pilgrim of Nature lay stretch'd in decay,
Like the corpse of an outcast abandon'd to weather,
Till the mountain-winds wasted the tenantless clay.
Nor yet quite deserted, though lonely extended,
For faithful in death, his mute favourite attended
The much-loved remains of her master defended,
And chaced the hill-fox and the raven away.

3

How long didst thou think that his silence was slumber?
When the wind waved his garment, how oft didst thou start?
How many long days and long nights didst thou number,
Ere he faded before thee, the friend of thy heart?
And, oh! was it meet, that,—no requiem read o'er him,—
No mother to weep, and no friend to deplore him;
And thou, little guardian, alone stretch'd before him,—
Unhonour'd the Pilgrim from life should depart?

4

When a Prince to the fate of the Peasant has yielded,
The tapestry waves dark round the dim-lighted hall;
With scutcheons of silver the coffin is shielded,
And pages stand mute by the canopied pall:
Through the courts, at deep midnight, the torches are gleaming
In the proudly-arch'd chapel the banners are beaming;
Far adown the long aisle sacred music is streaming,
Lamenting a Chief of the people should fall.

5

But meeter for thee, gentle lover of nature,
To lay down thy head like the meek mountain lamb,
When, wilder'd, he drops from some cliff huge in stature,
And draws his last sob by the side of his dam.
And more stately thy couch by this desert lake lying,
Thy obsequies sung by the grey-plover flying,
With one faithful friend but to witness thy dying,
In the arms of Helvellyn and Catchedicam.

XX.

PARODY ON THE PRECEDING.

This is said to be the joint composition of Francis Jeffrey, now Lord Jeffrey, Henry Cockburn, now Lord Cockburn, Sir John Archibald Murray, Knight, lately Lord Advocate of Scotland, now a Judge of the Court of Session, by the title of Lord Murray, and John Richardson, Esq. Solicitor in London. The two first stanzas are ascribed to Lord Jeffrey and Mr. Richardson.

1

I climb'd the High Street, just as nine was a ringing,
The Macer to three of his roll had got on;
And eager each Clerk on his Counsel was springing,
Save on thee, luckless lawyer,* who fee had got none.

* Otho Herman Wemyss, Esquire, admitted Advocate 17th Dec. 1755,—he was the son of Mr. William Wemyss, a respectable writer to the signet; and although a lawyer of no inconsiderable talent, met with little success at the bar. He was a staunch whig, and in old age, obtained the appointment of Sheriff-substitute of Selkirk; which office, shortly before his death in 1835, he relinquished. While holding this appointment, he paid a visit to Edinburgh, during the excitement occasioned by the outcry against the annuity-tax, and, upon this occasion, got his liberal notions somewhat shaken. It is well known that Mr. Tait the bookseller, who had obtained great popularity as a leading member of the radical party, was, upon his refusal to pay the obnoxious tax, sent to the Calton Jail, and his progress there, partook more of a triumphal procession than an incarceration for non-payment of taxes. Poor Otho was sauntering along Waterloo Place, and had got almost opposite to the Calton Jail, when he was surrounded by the mob assembled on this memorable occasion. A cheer was given for Mr. Tait, and one of the illustrious unwashed, insisted that the sheriff should doff his beaver, and join in the acclamation. Otho, who thought the better part of valour was discretion, did as he was bid, and shouted loudly, "Tait for ever." The stranger, delighted with the enthusiasm displayed, swore eternal friendship, and as embracing amongst men is not relished in this country, insisted on shaking hands with so worthy a citizen. This boon was conceded, and the ancient patriot's fingers received so fervent a pressure, that they tingled for some time afterwards. The mysterious anti-annuitant then beat a retreat, and when the judge had recovered from the thrilling emotions produced by the affectionate squeeze, he discovered that his new friend had removed from one of his digits, a valuable seal ring. This, he undubitably had taken away from no sordid motive but as a memorial of the veneration in which he held his proselyte, and as a pledge of fraternization. Otho, who told the story, was by no means reconciled to this popular manner of testifying respect.

On the right, Nicodemus* his leg was extending,
To the stove, J[ohnn]y W[righ]t† his brown visage was bendi[illegible]g;
And a huge brainless Judge‡ the fore bar was ascending,
When I marked thee, poor O[th]o, stand briefless alone.

2

Dark and green is that spot, by thy love still distinguished,
T'wixt the stove and the side-bar, where oft thou didst stray
Like the ghost of a lawyer, by hunger extinguish'd,
Who walks a sad warning to crowds at bright day.
Nor yet quite deserted, tho' poorly attended,
For see, his right hand Virgin Smith§ has extended,
And Hagart's|| strong breath thy retreat has defended,
And chas'd the vain wits and loud scoffers away.

* Edward M'Cormick, Esq. Sheriff-depute of Ayrshire,—known by the s[illegible]u-briquet of Nicodemus, which was given him by John Clerk. He was a tall m[illegible]n, upwards of six feet two.

† John Wright, Esq.—The curious reader will find two very characteristic etchings of this eccentric and very ugly person in Kay's Edinburgh Portraits. Wright is said to have been originally a shoemaker, but having contrived to educate himself, he became a lecturer on civil law, and a "law grinder." He afterwards passed advocate, but had little or no business;—latterly, he had a small pension allowed him by the Faculty. A gentleman now dead, who knew him well, in a note on this passage, has written,—"He had an extraordinary coarse countenance,—no utterance, and bad manner,—had latterly a pension from the Faculty, which he long resisted to take. He was an honest innocent man, and most confoundedly obstinate."

‡ Lord Polkemmet.—The same gentleman who recorded his opinion of Wright furnishes this notice as to Polkemmet:—He was "a man of great stature and solemnity of manner. He spoke in a drawling way, with a strong Scotch accent,—all which left an impression against him. He was an upright honest man, and upright judge, and considered a very good lawyer, though he required time to consider. He retired on a pension."

§ A Member of Faculty, of great respectability and worth, who acquired the soubriquet of Virgin, from his extreme purity of morals, and entire want of practice.

|| John Hagart of Cairnmuir was admitted advocate 24th January 1784,—a coarse vulgar looking man, with a breath which savoured not of the spicy gales

—— Wafted from the shore
Of Araby the blest.—

He had tolerable practice for some years, but was not much respected: latterly, he embroiled himself with the Judges, and having been very severely reprimanded by Lord President Hope for the manner in which he had conducted himself as

3.

How keen didst thou gaze as the agents mov'd past thee;
How oft when the Macer bawl'd loud didst thou start.

Counsel for Mrs. Belinda Colebrook or Taaffe, a lady who kept the Court in instant employment some years since, he brought an action of damages against his Lordship, which, after his death, was insisted in by his trustees, in consequence of special instructions to that effect in his settlements. Both the Court and House of Peers held the action untenable. The ultimate judgment was pronounced by Lord Gifford, and His Royal Highness the late Duke of York was one of the Peers who sat out the whole discussion.

Mr. Hagart was by no means remarkable for suavity or politeness of manner. From his possessing a small estate in Perthshire, he was in use to attend the meetings of Justices and Freeholders, where he was fond of showing off his forensic talent. It so happened, that the county gentlemen had resolved to apply to the Lords of the Treasury upon some matter or other, and had accordingly prepared a petition, which was generally objected to, on the ground of its being much too long. It was thereupon remitted to a committee, which speedily curtailed it of its fair proportions. Every person was satisfied with the abridgement, excepting Mr. Hagart, who was never satisfied with any thing, and he contended, that shortened as it was, it would take *ten* minutes to read; "now," says the learned gentleman, "if it takes so much time in reading, the Lords of the Treasury will toss it aside, and pay no attention to it." Upon this, the late Sir Alexander Muir Mackenzie remarked, that he would himself read it to the gentlemen assembled, explicitly and distinctly, in five minutes. The worthy baronet, be it observed, had a protrusion of his lower lip, which made it more than twice the ordinary size; and it had something of the appearance of a pair of underlips. Hagart angrily replied, "I am ready to join issue with the learned gentleman, [Sir Alexander was an advocate,] as to the fact, and I wish, therefore, that any one present would take the trouble of reading the petition aloud, excepting always the learned gentleman himself, as, from his having double lips, he is able, no doubt, to read it twice as quickly as any one else." This piece of impertinence, which is given as characteristic of the man, may perhaps be attributable to party spleen, as Hagart was a radical whig, or liberal, and Sir Alexander, a keen tory or conservative.

Hagart was no scholar, although somewhat anxious to create an impression that he was one:—he was counsel in an action brought by the owner of a horse against a party who had had the use of it, and who had very seriously injured the animal. In a reclaiming petition to the Court for the owner, Hagart, after detailing everything very minutely,—explaining the multifarious ways in which a horse might be injured by the rider, and pointing out the treatment which ought to be adopted, thought it advisable to end with a flourish, and either having taken up the notion, that the following well-known line was quite in point, or perhaps having been persuaded by some wag that it was, he concluded as follows:—

Quadrupedante putrem sonitu quatit ungula campum,

May it therefore please your Lordships to alter the interlocutor under review, &c.

Alas! thy thin wig not much longer will last thee,
And no fee will the hard hearted writer impart.
And oh! is it meet that a student of Leyden,*
Should hardly have whole coat or breeches to stride in,
While home-bred and blockheads their carriages ride in,
Who can't tell where Leyden is placed on the Chart?

4

When Balmuto or Banny† the bench has ascended,
The former to bellow, the latter to sleep,
And Hermand as fierce as a tyger offended,
Is muttering his curses, not loudly but deep:
Then are all the fee'd lawyers most anxiously waiting,
Some ready to prose, and some ready for prating;
While some for delay are boldly debating,
Lamenting a cause thro' their fingers should creep.

5

But meeter for thee far with Thomas M'Grugar,‡
Thy heart's dearest friend, in condolence to sigh,
And to some idle question, in words sweet as sugar,
To bandy soft answer and gentle reply.
Far fitter, I ween than for gowns idly hoping,
With the Corsican Fairy§ your way darkly groping,
To spend the dull hours in John Dowie's,|| ale toping,
Regal'd with salt herring and hot penny pyes.

* Otho had been several years at Leyden studying civil law.

† Lords Balmuto and Bannatyne.—The former certainly used to "bellow" at times tremendously, but chiefly when some youthful advocate appeared before him. He seemed delighted to astonish, and usually succeeded. The latter now and then appeared to dose, but he was usually very attentive to what was said, and unlike Balmuto, always read his papers.

‡ Thomas M'Grugar was a son of Mr. Thomas M'Grugar, merchant, Edinburgh, admitted advocate 28th February 1786.—He was a worthy man,—had some little business,—and was remarkable for a soft manner of speaking. He published a supplemental volume to Kames and Woodhouselee's Dictionary of Decisions.

§ Geo. Sandy, Esq. whose bulky form presented a somewhat strong contrast to the tiny dwarf, who, under the appellation of the Corsican Fairy, visited all the principal towns in Great Britain.

|| Johny Dowie's Tavern was a well-known place of resort for thirsty persons

XXI.

PARODY

ON GRAY'S CELEBRATED ELEGY IN A COUNTRY CHURCH-YARD.

" Thou, that with ale, or viler liquors,
" Didst inspire Withers, Prynne, and Vickars,
" And forc'd them, tho' it was in spite
" Of nature and their stars, and write;
" Assist me but this once I 'mplore,
" And I will trouble thee no more."

Hudibras, Canto 1st, P. 1st, Line 645.

From a copy privately printed at Edinburgh 1814, 12mo. Written by the late Colin Maclaurin, Esquire, advocate, a son of Lord Dreghorn. The author was subject to fits of insanity, which latterly became so frequent and violent as to make it necessary to place him under restraint. One of his last public exhibitions was sufficiently alarming to the party concerned, although somewhat amusing to the spectators. Colin, about two o'clock in a fine September day, was sauntering along Princes Street, attired in a great coat, which served as a surtout. This garment was buttoned below, but the breast was open, and in the left side thereof was placed a goodly assortment of apples; in his right hand was a large carving knife, which, with a flourish ever and anon, he dashed into the left side of his great-coat, and extracted therefrom an apple, which he devoured:—he had just reached the termination of Hanover Street, when Mr. ——— of ——— a stout athletic man, was turning the corner,—struck by the singular apparition before him, Mr. ——— could not help smiling, when unfortunately Colin observed him, and enraged at what he supposed a deliberate insult, made a pass at him with the knife,—off set Mr. ———, and Colin in pursuit swearing vengeance,—the spectators made way for these extraordinary racers, and it was not until Mr. ——— reached the eastern extremity of Princes Street, that he bethought himself that a shop might afford a friendly shelter. He accordingly rushed into the first one that came in his way, and closing the door, effectually secured himself from the threatened assault of his eccentric assailant. Maclaurin was in his sane moments a very well-informed man. He died a few years ago.

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at the commencement of the present century. This house of call, which was removed in consequence of the recent improvements, was the ordinary resort of a great proportion of the Members of the College of Justice at the period this Parody was written. The judges had long ceased to patronize the ale-house; but many members of the bar, and most of the agents, continued to carouse there, as their predecessors had done before them. Dowie himself, of whom there is a portrait in the Scots Magazine, amassed wealth, and died rich.

COURT OF SESSION GARLAND.

The bell now tolls, soon after dawn of day,
  The lawyer herd wind slowly up the street,
The macer court-ward plods his weary way,
  Anxious, in haste, each learned judge to meet.

And soon the bustling scene delights the sight,
  In yonder gorgeous and stupendous hall,
While eager macers call, with all their might,
  The busy lawyers from each judge's roll.

E're long, from yonder velvet-mantled chair,
  The angry judge does to the bar complain,
Of counsel who, by ways and means unfair,
  Molest his potent and judicial reign.

Beneath yon fretted roof that rafters shade,
  Where lie huge deeds in many mouldering heads,
Each, in its narrow cell, far too long laid,
  Many a dusty process often sleeps.*

The dreadful call of macer, like a horn,
  The agent, tottering from some humble shed,
The lawyer's claron, like the cock's, at morn,
  No more shall rouse them from their lowly bed.

For them no more the agent's lamp shall burn,
  Or busy clerk oft' ply his evening care,
No counsel run to hail their quick return,
  Or long their client's envied fees to share.

Oft' did the harvest to their wishes yield,
  And knotty points their stubborn souls oft' broke.
How keenly did they, then, their clients shield!
  How bow'd the laws beneath their sturdy stroke!

Let not derision mock their useful toils,
  Forensic broils, and origin obscure,
Nor judges hear, with a disdainful smile,
  The short and simple causes of the poor.

* An action is said to be asleep if not called in Court for year and day.

The boast of sov'reignty, the rod of power,
  And all the sway that judges ever have,
Await alike the inevitable hour
  When all must yield to some designing knave.

Nor you, ye vain, impute to such the fault,
  If mem'ry o'er his deeds no trophies raise,
Where, thro' the long drawn hall and fretted vault,
  The well-fee'd lawyer swells his note of praise.

Can counsel's loud and animated voice,
  Back to that mansion call the sleeping cause;
Without an order make such process rise,
  Or flatt'ry soothe the dull cold ear of laws?

Perhaps in some neglected spot is laid
  A cause once pregnant with celestial fire,
Such as the wily C[orbe]t* might have pled,
  Or waked to extacy Scott's living lyre.

For knowledge to their eyes her ample page,
  Rich with the spoils of time, did oft' enrol;
No penury repress'd their noble rage,
  Nor froze the genial current of their soul.

* The epithet "Wily," which the author has applied to Mr. Corbet, is not very appropriate, for he had not, at least in his latter days, the slightest claim to such an appellation. He was a bold and sarcastic pleader in his early days, as the following anecdote sufficiently demonstrates. Lord President Campbell, after the fashion of those times, was somewhat addicted to browbeating young counsel; and as bearding a Judge is not a likely way to rise in favour, his Lordship generally got it all his own way. Upon one occasion, however, he caught a tartar. His Lordship had what are termed little pigs eyes, and his voice was thin and weak. Corbet had been pleading before the Inner-House, and, as usual, the President commenced his attack, when his intended victim thus addressed him: "My Lord, it is not for me to enter into any altercation with "your Lordship, for no one knows better than I do the great difference between "us; you occupy the highest place on the Bench, and I the lowest at the Bar; "and then, my Lord, I have not your Lordship's voice of thunder,—I have not "your Lordship's rolling eye of command."

Full many a deed, amid such bustling scene,
  The clerk's unfathom'd and dark cells oft' bear;
Full many a process lies too long unseen,
  Neglected by the judges and the bar.

Some village lawyer, that, with dauntless breast,
  The little tyrant of his fields withstood,
May have a mute and glorious process rest,
  Tho' great his wrongs, and tho' his cause be good.

Th' applause of list'ning senates to command,
  The threats of power and ruin to despise,
To scatter justice o'er a smiling land,
  And read its history in a nation's eyes,

Their lot inclined. Nor circumscrib'd alone
  Their growing talents, but their crimes confin'd;
Forbade to wade through discord widely sown,
  And shut the gates of justice on mankind.

The struggling pangs of conscious truth to hide,
  To quench the blushes of ingenuous shame,
Or heap the shrine of luxury and pride,
  With incense kindled at some holy flame.

Far from the bustling crowd's ignoble strife,
  Their humble wishes never learned to stray;
Along the rough litigious vale of life
  They kept the noisy tenor of their way.

Their client's fame from insult to protect,
  Some frail Memorial they would often try,
With uncouth prose and shapeless language deck'd,
  T' implore the passing tribute of a sigh.

For who to careless folly e'er a prey,
  Their legal rights unguarded have resign'd,
Given up a cause as clear as the noon-day,
  Nor cast a longing ling'ring look behind.

On some dear cause each client oft relies;
Some pious tears, when lost, it oft' requires:
Ev'n from the bar the voice of justice cries;
Ev'n lawyers weep when such a cause expires.

For thee, who mindful of each agent's deeds,
Dost in these lines their artful ways relate;
If chance, or lonely contemplation leads
Some kindred spirit to enquire thy fate;

Haply some hoary headed sage may say,—
Oft' have we seen him, at the peep of dawn,
Brushing, with hasty steps, the dews away,
To meet the judges, at the court in town.

There, at the foot of some frequented bench
In th' Outer-House, and to the side bar nigh,
Molested by the agents filthy stench,
He'd pore on books with many a piteous sigh.*

In yonder hall, now smiling as in scorn,
Mutt'ring his wayward fancies, he would rove;
Now drooping, woeful, wan, like one forlorn,
Or craz'd with care, or cross'd in hopeless love.

One morn I miss'd him in th' accustomed hall,
Upon the boards, and near his favourite seat;
Another came, and answered to the roll:
Nor at the bar nor in the court he sate.

The next, with dirges due, in sad array,
Slow through the church-way path we saw him borne:
Approach and read, for thou cans't read the lay
Grav'd on his stone, beneath yon aged thorn.

* Mr. M'Laurin had very fair prospects at the time he entered the Faculty Advocates, and he made—it is said—one or two very good appearances. His fortunate malady, which came on at an early period of life, effectually prented his rising at the Bar. The description of himself in the ensuing stanza pretty accurate, excepting that he was (at least at the time he wrote it) very like one "cross'd in hopeless love."

EPITAPH.

Here rests his head upon the lap of earth,
  A youth to Business and to Law well known;
Fair Science frown'd not on his humble birth,
  And Litigation marked him as her own.

Large was his bounty, and his soul sincere,
  Heaven did a recompense as largely send:
He gave to Mis'ry (all he had), a tear;
  He gain'd from Heav'n, ('twas all he wished), a friend.

No further seek his merits to disclose,
  Nor draw his frailties from their dread abode;
(There they, like many a lawyer's, now repose)
  The bosom of his Father and his God.

COLIN M'LAURIN.*

Colintown, 12th May 1814.

* This very strange production seems to have been composed during one of the author's periodical fits of insanity. Its absurdity is amusing enough, and it has been preserved as the only existing memorial of the son of that distinguished lawyer, Lord Dreghorn, and the grandson of the still more distinguished mathematician, Colin Maclaurin.

XXII.

DECISIONES PROVINCIALES CUM NOTIS VARIORUM ET FUSTY-WHYGGII.

These curious decisions were privately printed some years ago, and strange as it may appear, they are actually *genuine*, having been veritably pronounced by a provincial judge, now no more,—the only liberty taken having been to alter the names and vary the dates.

TO

PETER NIMMO, L.L.D. M.D. A.S.S.

Professor of Law, Medicine and Divinity,
Attorney-General to his Serene Highness the Peishwa, Accoucheur to that Sublime Potentate the Black Princess of Mullygatawny, Protestant Chaplain to his Excellency the Turkish Ambassador.
&c. &c.
&c.

This Volume is respectfully inscribed by
THE EDITOR.

INTRODUCTORY OBSERVATIONS.

The acquisition of a competent knowledge of the jurisprudence of the country in which we live, is an indispensible requisite in the education of every man of birth and fortune. Nay, even to persons in the inferior ranks of life, a certain degree of legal knowledge is absolutely indispensible. The

reason is obvious. Law in its operation affects every class of society in some shape or other, and consequently, the proper or improper administration of justice, becomes an object of vital importance to the community, in every civilized state.

The opinions of our enlightened *Jurisconsults* as embodied, or expressed in the decisions which they pronounce in their judicial capacity, are therefore regarded with that attention which their general importance demands. The value, too, of their legal views is still more increased, when it is considered, that in process of time their *dicta* become part and parcel of our law, and afford precedents which necessarily must influence, and regulate all analagous cases.

The multifarious volumes of our reports, evince the indefatigable zeal and industry with which our public spirited lawyers collect, methodize, and preserve the decisions and pithy apothegms of our Senators. However well-disposed the editor of the ensuing valuable remains may be, to concede to these meritorious individuals those praises which they so justly merit, still it is impossible to deny, that with all their research, many decisions of infinite moment have escaped their observance. This more particularly happens in reference to *provincial reports*, of which there exist few, or no specimens. How true is it, that

> 'Full many a gem of purest ray serene,
> 'The dark unfathom'd caves of ocean bear;
> 'Full many a flower is born to blush unseen,
> 'And waste its fragrance in the desert air.'

Thus has it faired with these valuable and golden remains, whereof the two ensuing reports are a specimen. In the valuable library of the justly venerated and respected Professor Nimmo, the MS. has for many years reposed unnoticed and unknown, except by those individuals who had long regarded the legal ruler of their isolated district, with that veneration and respect which his unrivalled talents and abilities commanded. Had fate assigned to this provincial

judge a more elevated station in the legal world, what might we not have expected? Regret is vain; and our only consolation is, that his reliques have been rescued by Dr. Nimmo's pious hand from oblivion.* By his exertions the legal doctrines and immortal opinions of this unrivalled lawyer have been preserved to enlighten future ages, while, presently, they no doubt will excite the astonishment of a wondering but delighted world.

The two following cases have been selected as a specimen, and should they meet with a favourable reception, it is the intention of the editor to publish the whole of the reports,† with the notes of Drs. Nimmo and Yagar, and Professor Von Furstandig *aliter* Fustywhygg, who have condescended to embellish the volume with their valuable annotations. To each of these accomplished individuals, the editor returns his sincerest thanks, and he has no doubt the public will duly appreciate their labours.

PROVINCIAL REPORTS.

I.—Sally Roy & Paul Jones *v.* Lord Viscount Trumpery *primo Aprilis* 1771. *Nobile officium,—Process,—Expenses.*

This was a process of multiplepoinding,—the sum *in medio* £30. The Viscount lodged a claim for £3 and expenses of process.

23d June 1770. The judge 'prefers the pursuers to the

* Dr. Nimmo studied under this great master, and had carefully noted down every decision of any moment. It is remarkable, that the pupil has rivalled his master in that depth of thought, and that refinement of judgment, which is so conspicuous in the following reports.

† The publisher, following the example of the GREAT UNKNOWN, has been advised to withhold the name of the gifted individual whose decisions are now brought to light; but in the next, it is intended to prefix a sketch of his life, in order that the public curiosity may be gratified.

'sums *in medio*, decerns against the principal defender 'therefore,* finds no expenses due,† but dues of extract.'

Defender reclaimed, and craved the sum of £3, being the total amount of his claim and his expenses.

1st July. 'His Lordship having considered the petition‡ 'for the defender, prefers him to the sum *in medio:* finds 'no expenses due.'

Pursuers reclaimed—Petition refused.

Defender reclaimed as to expenses—They were allowed.‖

* Narrow minds might be apt to carp at a decerniture entitling the raiser of the multiplepoinding (or process of double distress,) to appropriate the funds IN MEDIO; but they should recollect, that talent is not to be fettered by form, or the ends of justice retarded by a servile adherence to the rules of judicial procedure. The judge EX NOBILI OFFICIO wished to remunerate Jones and Roy for the trouble they had in coming into court. And as the funds were then in their hands, it would be less inconvenient to order the pursuers to retain them, than to ordain them to be paid over to the defender. N.

† No expenses were awarded. For this equitable reason, that when a man gains his cause, he has gained enough, (*dictum* of Lord Balmuto to T. Walker Baird, Esq. *in causa* Aitchison *v.* Waddel.) Besides, it would be the height of cruelty to subject his unsuccessful antagonist, in addition to losing his cause,—in payment of costs. This equitable rule has subsequently been frequently recognised in practice. F.

His Lordship sometimes found the successful party liable in expenses, for the equitable reason assigned in Professor Fusty-whigg's preceding note. N.

‡ The advising a case ex parte has been much censured, but with injustice, for it will not be denied, that great confusion is occasioned by the opposite statements of litigants; this difficulty, however, is completely avoided by hearing only one of the parties. In the present case, to have ordered answers, would merely have embarrassed the cause. A judge should always rise superior to vulgar prejudices. F.

‖ Many important legal views arise out of a consideration of this case.—I. It is a truly gratifying thing when judges are open to conviction. The different and opposite judgments his Lordship pronounced, shew with what care and attention he deliberated; and although he had conceived a prejudice against the plea of the Viscount in the earlier stages of the cause, it was entirely removed at the close. A nobler or more praiseworthy example of this exercise of the nobile officium is not recorded, than that of awarding to a person demanding only £3 the sum of £30, being the amount of the fund in medio, and of alimenting him besides with his costs. Men of weak intellect would imagine that there was an inconsistency in the awarding of costs here. If they would reflect for one moment, they would see that there was no inconsistency at all. To every general rule there is an exception, and there is one here. The Judge was puzzled what

II.—M'Smash *v.* M'Snifter & M'Sma.—*Eo die. Process,—Jurisdiction,—Expenses.*

This was a process of multiplepoinding* where the common debtor, Mrs. Botherem, was dead, and her daughter denied all knowledge of the debts said to be due to the arresters. The judge allowed the arresters a proof, but prior to their proceeding with it, appointed Mrs. Botherem *to appear* and be judicially examined.†

The defunct not choosing to make her appearance,—9th July 1770,—His Lordship, 'in respect the defender is 'held as confessed, decerns against *him*‡ as libelled, under

to make of the case; and the consequence was, that various conflicting interlocutors were pronounced. Now, really, if litigants try to puzzle a Judge, it is reasonable that they should be found liable in all the expenses occasioned by such an indecent attempt.—II. A more beautiful or admirable commentary on the first rule of Law,

"Justitia est constans et perpetua voluntas, suum cuique tribuendi."

can hardly be figured than what occurs here.

* In processes of multiplepoinding, his Lordship's judgments stand unrivalled. Editor.

† This must be admitted at all hands to be a most splendid specimen of the fictio juris. The deceased being by fiction of law held to be under the jurisdiction of his Lordship, in consequence of his citing her to appear in Court, and her disobeying this order. I was in court when the difficulty occurred, and took the liberty of hinting that by letters of supplement, a jurisdiction might be created. His Lordship objected to this as an expensive form of procedure; and, after deliberating a few moments, he entered at considerable length upon a detail of the various ways by which jurisdiction might be created; and concluded with stating, that he thought the method he proposed to adopt the most eligible and least expensive. The expense weighed greatly with him; for as he most justly said, 'We are not aware what the pecuniary resources of the deceased 'may be; it is, therefore, our duty to avoid accumulating any unnecessary ex-'pense upon the party.' N.

Few Judges would have thought of a method so admirably suited for the furtherance of justice. F.

‡ Many people would imagine that there was a mistake here, the deceased being a woman, not a man. This is but a further illustration of the transcendant talents of the judge. No doubt, while alive, Mrs. Botherem was a woman, —when she threw off this mortal coil, and became a disembodied spirit, the judge

'deduction of *his* expenses,* which modifies to 40 shil-
'lings.'

Thereafter it was represented that the examination intended to refer to Molly Jenkins the daughter, as *she* was defender, not her mother, who was dead.

25th Feb. 1771. His Lordship 'appoints Molly Jenkins '*still* to be examined.'

She was examined, and denied all knowledge of the alleged debts. The judge thereupon appointed *her* to prove that her mother did *not* owe the sums claimed. As she did not well see how she was to prove a negative, she led no proof. Accordingly,

29th Feb. Decree was pronounced 'against her as libelled, 'and expenses were modified to 50 shillings.'

Against this judgment all parties reclaimed. Finally, an interlocutor was pronounced, finding, *inter alia*, 'That the 'defenders are not entitled to their expenses,' and therefore, 'modifies the same to two guineas."†

had no opportunity of learning her sex, or whether she had any sex at all. In this state of uncertainty, and willing, perhaps, to pay a compliment to the deceased, his Lordship deemed it more respectful to suppose that she *now* was of the nobler sex. This was certainly more decorous than to have at once reduced her to the neuter gender. N.

Mahomet, or more properly Mahommed, denies the existence of woman in a future state; probably he had the same ideas of the matter as our enlightened judge, namely, that so soon as females cease to exist here, they cease to be women. Y.

* The equity of this award of costs is unquestionable. He (Mrs. Botherem) was now the denizen of a foreign state, and could not legally be presumed to know any thing about the forms of the Scotish Courts; besides *he* was entitled to travelling expenses. Ex nobili officio, therefore, the judge alimented *him* with *his* reasonable costs. Y.

† The concluding remarks to the first report, are equally applicable to the present one. F.

XXIII.

UNTO THE RIGHT HONOURABLE THE LORDS OF COUNCIL AND SESSION, THE PETITION OF THE CLERKS AND APPRENTICES OF THE WRITERS TO THE SIGNET.

This and the succeeding article appeared in the Cornucopia Britannica, a periodical work, which commenced its ephemeral existence early in the year 1832, or end of the year 1831. The first Petition, from the reference to the tax on powder, is evidently of a much earlier date than the second.

That your petitioners, with much regret,
Take up your Lordships' time their ills to state;
But, conscious that your Lordships succour lend,
The sad to comfort, and the poor befriend,
We've dared, with boldness, to reveal our grief,
And from your Lordships' justice hope relief.
We've struggled long chill penury to hide,
But now necessity o'ercomes our pride;
Though modesty concealed our pressing need,
Our hollow stomachs would cry out for bread;
And sure this humble prayer, more grateful far
Than empty sounds of hunger at your bar,
Without poetic ornament or fiction
We'll shortly state our case to your conviction.
Your Lordships know 'tis ours to copy pages,
For each of which poor threepence is our wages,—
And that in this unprofitable way
We're scarce employed a fourth part of the day,
Most of our masters thinking it quite fair
To keep three extra clerks—to live on air,
Though they themselves could finish every line,
They must have clerks—for what? To cut a shine.
Our other time like chairmen we must spend,
So many messages our masters send;
In borrowing processes and craving debtors,
Taking down rolls and passing signet letters,
And trudging idly through the Outer House,
We spend our time, or rather time abuse.
How many a writer's clerk attends the Court
Without one cause his spirits to support!

Yet see with how much cheerfulness he walks,
And over knotty points majestic talks!
Now sudden starts, as if awake from slumber,
Runs to the Macer, and cries, "What's the number?"
Although with that he has no more to do
Then if he were a miner in Peru.
Full many a tedious year has passed away,
Since writers' clerks have got increase of pay,
And e'en this ill we might with patience bear,
Had not each necessary grown so dear.
A writer's clerk, full fifty years ago,
On thirty pounds a year would be a beau,
But now with that same sum we scarce can hide
Our naked skin, and meat and drink provide.
Tradesmen of all descriptions raise their wages,
Why, therefore, no increase for copying pages?
If we're employ'd to copy any paper,
For instance, to a hosier or a draper,
Our charge is truly not a farthing more
Than what it was some forty years before;
But if we need a hat, or coat, or stocking,—
With great submission, is it not provoking?
Our draper says he cannot sell it under
Five times the price it cost in seventeen hunder.
We groan beneath a sad, but just, taxation,
From which there's little hope of extrication.
We'll pay the taxes while we have a groat,
Whether your Lordships grant our prayers or not.
But one late tax afflicts us to the heart,
Because we cannot with a guinea part:
When powder'd, we were decent looking fellows,
But now resemble blacksmiths at their bellows:
We're pointed out, our very soul it racks,
As writers' clerks who can't afford the tax.
While other tradesmen join in combinations
To raise their wages, or desert their stations.*

* The preceding eight lines occur in a printed periodical, "published W. Smith, 3 Bristo Street, Edinburgh."

To aid our plea, truth, justice, sense refined,
Are in your Lordships' generous hearts combined.
In order all these hardships to prevent,
May't therefore please your Lordships to augment
The price of pages to a penny more
Than the low rate at which they were before;
And your petitioners shall pray sincere
That you may live and judge ten thousand year.

XXIV.

THE COMPLAINT, No. 2; OR, FURTHER REASONS WHY THE WAGES OF THE WRITERS' CLERKS AND APPRENTICES SHOULD BE INCREASED.

From the Cornucopia Britannica,—21st January 1832.

With pleasure I perused your last edition,
Wherein I read the "Writers' Clerks Petition;"
And I am hopeful that their Lordships will
Decern simpliciter, and pass our bill.
But should they take our case to *avizandum*,
And, before decree, wish an *audiendum*,
We'll depute one more versant in the laws
To plead our noble, plead our glorious cause.
No more shall we submit to such vexation,
For, in our case, no *tacit relocation*
Binds us to do, *de facto*, what, 'tis plain,
No lawyer could, *de jure*, well maintain.
Things cannot long remain *in statu quo*,
We must have decree, and that *in foro*.
The following reasons seem to me, 'mong others,
On which with deference, my learned brothers
May rest their suit for further augmentation,
And bring about a glorious reformation:—
Full many a year is spent in abstract study,
To gain admittance to this *learned* body;
And, when admitted, view the pomp and show,
We must exhibit *ex officio*.

Who then would think poor threepence is our *quantum*,
Paid with a grudge, *et si petatur tantum*.
The writers' clerks, true, are a numerous flock,
And prove the rule of which M'Culloch spoke,*
For some *great masters* sport their eight or nine,
When three, at most, "could finish every line."
With nought to do, and as our last resort,
We fly to gin shops, cursing law and Court!
With empty pockets, and with little care,
We soon create a glorious "bill of fare."
"Waiter!" one bawls out, as he takes his stick,
Your bill's damn'd moderate, but our system's tick.
"Good morrow, fool," quoth every one and all,
You'll wait a little till next time we call.
The tailors, too, and all the craftish line,
Know what it is for clerks "to cut a shine,"
So things run on till credit is no more—
Then we enlist, and leave our native shore.
Thus, thus it is, a wretched life we end,
And die unheeded in a foreign land.
This to avert, and save yourself from blame,
Then raise your wages, writers, oh! for shame!
'Tis strange, surpassing strange, that we,
A learned body, full worse off should be
Than your domestics, who must all be paid,
Whether they clean your shoes, or dress your head.
Keep no more clerks than you can well employ,
Then cares will cease, and we shall life enjoy.
A better race ne'er graced Edina's plains,
Nor ever will, while time and tide remains,—
A vigorous offspring to the state we'll raise
To fight for Scotland,—die for Scotland's praise.
All future ages, then, shall bless the day
When writers' clerks received increase of pay.
No more I add, but am with great respect,
Your's, most obediently,—

A WRITER'S CLERK.

* It is one of Mr. M'Culloch's principles of political economy, that the people in England have out-grown labour.

XXV.

YOUR YOUNG WRITER TO THE SIGNET; A SKETCH.

This article appeared in the Scots Magazine for May 1826, and was generally (and we understand correctly) ascribed to a barrister of great literary talent. It gave great offence, owing chiefly to the style, which is remarkably vituperative; there is, however, considerable truth in some portion of the remarks, although as a whole the sketch is exaggerated.

"He is a shark of the first magnitude."

This is the creature's general character; let us contemplate some individual traits of it. He is the eldest son of another Writer to the Signet, the younger son of a country laird, or perhaps the grown up brat of a rustic parson, whose quondam pupil and patron has enabled him to place his son in the chambers of a proud, overgrown agent, without payment of an apprentice fee. In his boyhood, the creature, in spite of the monstrous thickness of his skull, learned to decline *penna*, and to conjugate *scribo*; and *penna* and *scribo*, in their respective cases and tenses, comprised all that could be designated learning in the composition of the creature's mental constitution. With this stock of varied and profound erudition, the thing was sent to College, to learn two or three additional words of the Latin language, and, if possible, one or two of Greek. After spending two winter sessions at College, agreeably to the rules of that self-called enlightened corporation, to whose grasping privileges he aspires to be admitted, he finds, or at least it is taken for granted, that he has acquired, in addition to his former learning, a tolerably complete knowledge of the verb *rapio*, signifying to arrest and plunder, with all its derivatives and compounds: it remains, however, a matter of doubt to himself, and to all others, whether he knows a single syllable, much less a word of Greek. A glimmering recollection flits across his brain, that the word ἀργύριον, signifying money, once formed an item in his literary store. Thus, with a mind so amply

furnished as actually to understand *penna* and *scribo*, with the substantial verb *rapio*, and having an evanescent remembrance of one Greek vocable, fortified, moreover, with a considerable stock of abominably-sounding Scotch words, which he has learned from his slovenly, ill-bred mother, and with half-a-dozen English words and phrases, which he has almost involuntarily picked up in the progress of his precious academical curriculum, the thing proceeds to the chambers of his future master. On his way thither, he meditates on his past and present condition, and, blockhead as he is, he cannot altogether throw aside conjectures as to the probabilities of the future. The indenture of a five-year's clerkship is prepared and engrossed by himself, and signed by the parties with all the due solemnities of law, and he takes his seat at the desk, which has just been left by some other junior manufacturer of legal writs, technically and elegantly denominated hornings, poindings, and captions, who has assumed, or is about to assume, the imposing title of a Writer to his Majesty's Signet.

It now becomes necessary for the nursling lawyer to call into exercise the whole of his abilities, and to apply his acquired knowledge to the business of real life. His master pays little attention to him, and he is left to find his way among the intricacies and mysteries of his future profession, by the information and instruction which can be obtained by dint of observation and inquiry among his companions in the same chambers. Along with a smattering of business, which he learns from these wights, some of whom are probably old stagers on the road of profligacy, he acquires a pretty fair proportion of depraved ideas, at the mere conception of which a few months ago he would have started with horror. At the same time, he gradually attains to some proficiency in the language and practices of young bloods of the town, whose glory is in their shame, and whose greatest boast it is to riot in the orgies of unbridled obscenity, and boundless debauchery. To this state of perfection he does not arrive

without various misgivings and occasional annoyances from a wounded sensibility. But if his health and his purse do not fail him, he is almost certain to reach this grand climax some time before the expiry of his indenture.

In this manner he reaches his twenty-first or twenty-second year; and having sown his wild oats, and imbibed a little knowledge of business, and a thirst for more, with an unbounded craving for fingering large sums, composed of numerous items, few exceeding three shillings and fourpence, or six shillings and eightpence, he enters on his career with a brass plate on his door, indicating, by the large capitals W. S. annexed to his name, that he vends all sorts of legal writs at, but not one farthing below, the full sum fixed by the legal body of which he is now an initiated member. He now becomes a staid man of business, perhaps marries, and thus becomes somewhat civilized; but more probably, he remains for some years a bachelor, attends very punctually to business in the forenoon, but spends his evenings, now that he has acquired a little pelf, in a more methodical species of debauchery than that to which he accustomed himself during his clerkship. If he becomes the junior partner of some Don in the profession, he will come with great dignity among the now silent clerks in his chambers; he will speak big to them; and perhaps, with the insolence of upstart authority, he will scold the wretches, trembling lest he should carry his petulent caprice so far as to dismiss them entirely from his employment. He takes especial care, however, to please his own senior partner, and is a perfect image of gentleness and politeness, in so far as the inbred barbarism of his selfish and vulgar soul will permit him, to all the better order of the clients of the firm.

He now takes charge of law-processes, and is regularly seen prowling in the courts, followed by a fag clerk, who conveys to counsel the papers necessary in the debates at the Bar. The thing now looks grave, probably uses a considerable quantity of snuff, and is the last man on earth to advise

or to bring about a compromise of any disputed point of a case, although his poor victim of a client is certain to throw away hundreds of gold to secure the chance of obtaining from his adversary a mere particle of chaff. Converse with him upon any subject but such as embraces the miserable jargon of summonses, defences, condescendences, pleas in law, and the opinions and speeches of the Dean of Faculty, and this or t'other sage of the long robe, and you will find his head a mere thing of emptiness. However, he grows up amid this profound ignorance of all that is estimable in human existence, and all that is most deserving to be known in the social condition of man. He becomes rich; and if he does not, by a miracle, relax a little in his application to business, and learn something of what he ought to have known before he dared to enter on the threshold of a profession called liberal, he will soon degenerate into an inanimate sot, or a scarcely more vital jolterhead squire.

Meet the young pretender in company, and he bores you with law cases past all power of comprehension. Meet him in a stage-coach, and he will equally pester you with his horrible talk about his processes, and with long dissertations on the merit of this or the other judge. Any of the *fifteen* who may happen to have taken a view of a case different from that of this wise Writer to the Signet, is unsparingly set down as an irreclaimable idiot. This stage-coach conversation, however, has a chance of being diversified by scraps from the secret history of some of the estates through which you are passing. The prying dog knows to a farthing the sum lent on mortgage over any given property in all broad Scotland; and his eyes sparkle with delight, when he informs you that the gentleman who lives in yonder mansion executed a trust-deed in his favour a few weeks ago, and that he is just on his way to take sasine on the deed. He sees in long vista the fat produce of this transaction, and to him it is the summum bonum of human happiness to dole out a few pounds to the starving proprietor of an ample

estate, thus unhappily thrown within the grasp of his harpy talons.

XXVI.

THE YOUNG LAWYER'S SOLILOQUY.

"What I hear of their hardships, their tortures, and groans,
Is almost enough to draw pity from stones."
COWPER'S *Pity for Poor Africans.*

From the Edinburgh Literary Journal, No. 64, January 1830.

Disconsolate beside his briefless desk,
Young Wordsby sat, and mournfully he closed
His portly Erskine, while, with heavy heart,
Thus *fee*-lingly, without a *fee*, he spoke :—
"Farewell! a long farewell to all my law-books!
This land of unpaid wigs for me no more
Hath charms or welcome.—Lo! my empty purse,
More hideous than a bare-ribbed skeleton,
Beckons me far away. On Monday last
Six youths, led onward by the cheerful sound
Of coming fees, tinkling like distant music,
Their trials in the civil law did pass;
Six more on Tuesday!—Hast thou, Jupiter!
No earthquake, no fell bolt, no pestilence?
Why not beneath the crowded Outer-House
Dig out a yawning gulf to swallow Skene,*

* Andrew Skene, Esquire, Advocate. This eminent lawyer, and excellent man was born in 1784. He was a son of Dr. Skene, (descended from a younger branch of the family of Skene of Skene), Professor of Medicine in the Marischal College, Aberdeen. His mother was a daughter of Gordon of Abergeldie.

Mr. Skene was educated at Marischal College, and after having been some time in the chambers of a writer to the signet in Edinburgh, passed advocate. He gradually obtained business, and for many years before his death, was in as great practice as any member of the bar. He was perhaps the most energetic pleader of the time, and although his voice was anything but musical, the force of his arguments, and the ingenuity of his pleadings, caused this defect to be soon overlooked. He was Solicitor-General prior to the formation of the Peel Administration,

Cockburn and Jeffrey, Cranstoun and Moncrieff?
Or, if thy mercy interposes, why
Wilt thou not send us a reviving shower
Of rich litigious clients from the moon?
And must I rend you from my heart, ye dreams
Of white cravats, and sweeping treble gowns?
No longer must I pant for the keen war,
Where foes are floor'd by words of giant size,
Or cut in pieces by a Latin saw?
My sweet Louisa, too!—must all our hopes
Vanish as quickly as a city feast?
Must we not marry, love, as once we plann'd,
Purchase a house in Queen Street or the Crescent,
And keep a carriage!—Eheu! well-a-day!
Hold forth a fan to ward a thunderbolt,

when he was succeeded by Duncan Macneil, Esquire. Had it not been for his unexpected and much lamented demise in March 1835, he undoubtedly would have been re-appointed to that office upon the return of the Whigs to power. Mr. Skene's application was remarkable, all his cases were prepared at night, and he was in the habit every morning of rising during winter at six, and five in summer, when he sat down, not to his professional, but to his literary studies; for, unlike many of his brethren, who think there is no pleasant reading but in Erskine's Institutes, and no useful research but in Morrison's Dictionary,—he was passionately devoted to literature. To the beauties of the old Dramatists, he was sensibly alive; and often, in the few moments he had to spare in the Parliament House, he would expatiate on their merits, and repeat such passages as had been impressed on his memory. Amongst his most favourite Dramas were Webster's White Devil and his Duchess of Malfi; these, he used to say, were entitled to a higher station in dramatic literature than is usually assigned to them. Nor was his taste exclusively limited to poetry, he was very partial to historical researches; but although fond of antiquities, he was not one of those who dwell with rapture on a rusty helmet, or pour out their soul over a Roman altar. On the contrary, he held antiquaries somewhat cheap, and thought it no sin to impose upon their credulity. On one occasion, he mistified them, by fabricating a charter of a very strange description, which gave the learned men, both of Modern Athens and Aberdeen, an opportunity of displaying their research in its elucidation.

This was a document purporting to be a Crown grant by Robert the Bruce, "Hebræo Judæico" of the lands of "Happerstaines." The reddendo was very peculiar, being "tria preputia aurata." The deed was slipped into a parcel of genuine writings, and found by a gentleman who was engaged in a topographical work relative to Aberdeen. The delight with which this credulous

With pasteboard dam up Niagara's flood,
Bind with a cobweb Captain Barclay's hands,*
Set snails to hunt the Alpine antelope,
Dissolve an iceberg in a crucible,
Shout loud enough to fright the antipodes,
Take a boil'd pea to shoot an elephant,
Put Patrick Robertson in Jeffrey's fob,
Saddle a mouse to carry Colonel Teesdale ;—†
And when all these are done—all these and more—
Then hope that love will link itself with law !
Farewell !—I would not go, but cruel fate
Has a writ out against me, and I must.
Alas ! my heart fails like an English bank !
My spirit sinks far lower than the funds !
Relentless fate ! had any but thyself
Been plaintiff in this stern unnatural suit,
I might have gain'd the cause, and prosper'd yet,—
But now I yield, for *thou* nonsuitest all !"

G. M.

person received this unique grant of land to a jew, so far back as the days of the Bruce, may be well conceived. He talked of it as one of the most extraordinary discoveries of modern times,—it was to be printed,—and a facsimile given :—at last he was undeceived, and his vexation may be better imagined than described. The fabricated charter is still preserved amongst the muniments in the house of Skene.

His death was deeply regretted by men of all parties,—his political antagonists knew his worth, and respected his integrity; for Mr. Skene never sacrificed his notions of right and wrong to party feeling; to him a job was a job, whether perpetrated by Whig or Tory. He was above all the little tricks and subtleties by which many persons strive to get on in the world,—he rose solely by industry and talent, and he maintained his high position by manliness, honesty, and good feeling.

* Captain Barclay of Ury, whose science in *re* so-*fist*-ica, is well known.

† Then Colonel, now Major-General Sir George Teesdale. This gallant officer, who was much respected and esteemed by the inhabitants of Edinburgh, was remarkably corpulent,—his appearance on horse-back was consequently very remarkable.

XXVII.

ROBERTSONIANA.

The two first pasquinades which follow, owe their origin to a report, that the worthy and talented gentleman who forms the subject of them, had been guilty of the sin of *ratting*. This report,—which was quickly spread by the *liberals*, (so called, as it is presumed, upon the principle of "*Lucus, a non lucendo,*") who, no doubt, rejoiced that they had acquired so respectable an ally,—arose, it is believed, in consequence of the attentions paid by Lord Chancellor Brougham to Mr. Robertson, while attending the House of Peers as counsel in various appeals, and the pleasure his Lordship took in his company. Of course, his own friends knew, that a more staunch or zealous conservative did not breathe, and they were much amused at the exultations of the opposite party upon the *great* accession of strength they imagined they had obtained. No person enjoyed the thing more than the subject of it, and he was amongst the loudest laughers at the verses made in frolic upon him by his friends. It is perhaps unnecessary to say, that Lord Advocate Jeffrey was as much the author of the epitaph, as the poet Wordsworth was the author of the sonnet.

1

PARLIAMENT-HOUSE JEU-D'ESPRIT.

When Brougham by Robertson was told,
He'd condescend a place to hold,
The Chancellor said, with wond'ring eyes,
Viewing the *Rat's* tremendous size,
That you would hold a place is true,
But where's the place that would hold you?

2

EPITAPH

ON PATRICK ROBERTSON, BY THE LORD ADVOCATE.

Here lies flat,—a Pat
Who long'd for that
  Good thing prefarmint,
And for that same
A Rat became,
  And died a varmint.

3

SONNET

TO PATRICK ROBERTSON, ESQ.

Patrick! Thou whom no man or mother's son,
From Rydal northward to thine own Strathspey,
The grave can better temper with the gay;
Who art in truth a double-barrell'd gun,
One barrell charg'd with law, and one with fun;
Accept the customary votive lay,
On this the festive, though the thoughtful day,
When time another cycle hath begun,
Spite of the working of "the people's bill,"
May thy quaint spirit long impart its zest
Unto thy daily life—making the year
One constant merry Christmas—seasoning still
The learning of the law with well-tim'd jest,
And meditation pale, with purple cheer.

W—— W—DS—TH.

R——l M——nt,
Jan. 1836.

XXVIII.

THE BOOK OF THE CHRONICLES OF THE CITY.

This clever production emanated from the Parliament House,—a very few copies were privately printed. It relates to the contest for the representation of the city of Edinburgh, when John Learmonth, Esquire, was a candidate. As all parties are satirised, a place has been given to it in this collection.

CHAPTER I.

1. And it came to pass, after many days, that the man Francis being well stricken in years, was made one of the Judges of the land.

2. And the chief men of the city, and the Pharisees, and many of the Scribes, took counsel together, saying, which of

us shall go up to the Great Assembly,* to sit there in his place?

3. And one said, I have spoken unto a certain young man, which is the chief of the money-changers, but he will not go.†

4. Another said, I have written unto one which is a Scribe, and who is fled into a far city, but he has been maimed and halt for many days.‡

5. And they wist not what to do.

6. ¶ But lo! while they yet doubted, there arose unto them one John, whose father was a Tanner, a maker of chariots, and a man skilful in much cunning workmanship, and who had ruled over the city, when the children of darkness were yet stronger than the children of light:

7. And he cried with a weak voice, and said, I will go up to the Great Assembly, to sit in the place of Francis, which is now a judge:

8. Yea, I will leave my chariots, and my cunning workmen, and my ornaments of silver and brass, and much leather; all this will I do for you, because there is none else. Therefore let my name be written upon the wall, and be heard throughout the city as a pleasant song.

9. But some murmured, saying, who is he that he should sit in the place of Francis, and that his name should be written on the wall?

10. Is he not the son of the tanner which dwelt by the stinking pool?

11. And others questioned him, saying, art thou not he who defiled the temple, and reviled a certain of the Priests?

12. But he denied it with an oath, saying, I am not the man; verily, I am he that will guard the Temple, and the towers thereof; with my chariots will I guard it, and with my whole strength.

13. The Priests also will I defend, that none may touch a hair of their heads; am I not myself a servant with them

* Great Assembly—House of Commons. † Sir John Forbes, Bart.
‡ Sir Francis Walker Drummond of Hawthornden, Bart.

in the temple, even one of those which receive tribute at the gates?

14. And those who heard him said one to another, even let us send him to the Great Council, lest perchance the Sadducees* should prevail against us.

15. ¶ Now, when the Sadducees heard of these things, and saw the writing which was upon the wall, they marvelled as at a great marvel, and were sore troubled.

16. And many said, this man was one of ourselves. Who hath turned back the wheels of his chariot?

17. But others answered and said, he was indeed one of ourselves, and there is none amongst us who now may prevail against him, for he is a dweller in the tents of the city, and his fathers before him, and his corn, and his wine and his oil, do much abound.

18. He is a man skilful in much merchandize, and one that hath power over the workers in brass and in iron, over him that smiteth on the anvil, and him that smootheth the harness.

19. Moreover, there is a certain man of small stature, which is a mason, and which sits with Princes, and he will speak for him to every artificer in wood and in stone, gathering them together unto him as for the battle.†

20. Verily, we shall strive against him in vain; therefore, when he goeth up to the Great Council, let us raise our voices with one accord, saying, that we have sent him.

21. ¶ But there arose unto them a tall man, which was one of the chief Scribes, whose nether raiment was as the raiment of those horsing upon horses, and he cried with a loud voice and said, not so, rather let it be that we choose one who is a stranger in the city.

22. There is a certain man in a far country, even Cam‡ the

* Sadducees—The Whig Clique. † William Burn, Esq.

‡ Cam—Sir John Cam Hobhouse was originally proposed, but as the Whig party was divided on the subject of his nomination, Sir John Campbell, the Attorney-General, was substituted in his place.

son of Benjamin, what say ye unto him? His own land hath spewed him out, therefore let him speak for us in the Great Assembly.

23. But a certain young man answered and said, nay, rather let us choose the man John, who is of the kingdom, which is on the other side of Jordan,* over against the city, the son of one of our Priests, and the counsellor of the king in a far city.

24. But the tall man answered and said, hold thy peace, thou knowest nothing in this matter; the man John is a man which labours in his own calling, like unto the beasts of burthen; how, therefore, can he speak for us in the Great Assembly?

25. Moreover, hath he not been despised and rejected of those among whom he hath pitched his tents?

26. And the young man trembled before the tall man, and his tongue cleaved to the roof of his mouth.

27. So they straightway wrote unto Cam, the son of Benjamin, saying, hasten unto us, and stay not thy footsteps; for already the enemy waxeth very strong.

28. But he answered and said, I have married a wife,† and I cannot come.

29. ¶ Now when the Sadducees heard this, their hearts were heavy within them, and they communed together, saying, what shall we do, for the hand of every man is now against us?

30. But some said, there is a certain fair man, which is a dealer in women's apparel, and whose name is as the name of that which is filthy in the sight of men,—why should not that man speak for us in the Great Assembly? Doth he not already rule over us in our own city?

31. But the tall man, and a certain man Andrew,‡ whose voice was as the creaking of the hinge which cryeth aloud for oil, answered and said, we will have none of him, we will

* Jordan—Fife. † A sister of the Marquis of Tweeddale.
‡ Andrew Skene, Esq. Advocate.

turn unto the man John, which is the counsellor of the King in the far city.

32. But there arose a certain foolish man, who said unto the tall man; Verily this is a riddle unto me, and a thing which passeth my understanding, yea, and the understanding of all my brethren; didst thou not say that the man John could *not* speak for us in the Great Assembly, and did we not all declare it?

33. But the tall man answered and said, What is that to thee; follow thou me.

CHAPTER II.

1. But while they yet reviled one another, and no two of them were of one mind, behold the man John, which was the King's counsellor,* appeared and stood in the midst of them.

2. And many said, surely this is a great mystery; but others said, we are as tools in the hands of the tall man, wherewith he must work his pleasure.

3. Then he that was the King's counsellor spoke with a loud voice and said, I am come hither, lest peradventure you should not have sent for me: who is there who is like unto me to speak for you in the Great Assembly?

4. Am I not of the kingdom which is beyond Jordan, and over against the city, and the son of one of your Priests?

5. Have I not done great things for myself and my whole house, yea, for the land wherein I have been a sojourner, and for the people which have cast me from them?†

6. Therefore let my name be magnified among you; let it also be written upon the wall, and heard in the songs of the sweet singers, playing upon an instrument of many strings.

7. ¶ And those to whom he thus spake answered and said; All this will we do for thee, for that thou art a stranger

* King's Councillor—Attorney-General. † The Electors of Dudley.

amongst us, and art despised and rejected of those to whom thou art known.

8. And they went with him throughout the whole city, calling upon the people to hearken to his words, and give ear unto his pleasant sayings.

9. But many who heard him said, the words of this man are they not as the words of one who hath a master over him?

10. And some asked him saying, thou hast spoken of the Temple,* and of the Priests, after the manner of those who delight in dark sayings, declare therefore unto us thy purpose to themward.

11. And he answered, after much questioning, the Temple I will indeed spare, but I will smite the Priests hip and thigh.

12. Five of the Priests† of the city will I destroy utterly, and the place which hath known them shall know them no more.

13. And unto the rest I will do in this wise,—I will make narrow the hem of their phylacteries, and their fine linen I will turn to filthy rags.

14. Their burnt offerings‡ shall no longer fill their nostrils with a pleasant savour, but the herbs of the field shall suffice unto them.

15. Their tribute-money§ I will wholly take from them; for it is a burden to the people, and a heaviness to the sons of men.

16. Their lives I will indeed spare, but the fullness of the land I will take from them for ever.

17. ¶ And many who heard him rejoiced exceedingly in all his words, and said one to another, who is like unto him

* Temple—Church of Scotland.

† Five of the Priests—This alludes to the five collegiate charges which were to be put down.

‡ This refers to the reduction of the salaries of the Clergy.

§ Tribute-Money—Annuity Tax.

to build up the Temple, and to strengthen the foundations thereof;

18. But others doubted,—saying, the Lord deliver us out of his hands!

19. These things did the chief men of the city, and the Sadducees, striving one against another with a great strife.

20. ¶ But they wot not all the while of James, the son of Roger, which was the man of the people.

21. Now James was a strong man, skilful in speech from his youth up,—a despiser of Princes, and of their servants;

22. Whose voice was as the voice of the bulls of Bashan.

23. And he gathered unto him as many as were in debt, as many as had fled to the place of refuge, which is the Sanctuary; as many as were of evil report; as many as were given to sudden change;

24. Also many from Miletus,*, which is the green island of the sea, whose hats and hosen were as the hats and hosen of the likenesses of the living things whereat the ravens are affrighted and flee away.

25. With sticks and with staves did they come.

26. Also the tailor after his kind, which had eschewed all manner of work.

27. ¶ These, and many more, gathered he unto him, and spake to them with a strong voice, saying.

28. My horn is exalted, and the strength of my right arm is increased exceedingly.

29. My enemies strive the one against the other, and are destroyed before my face.

30. My arch enemies, even the Sadducees, have perished before me throughout the city; my breath has prevailed against them even in Joppa, and the places on the sea-coast.

31. In Joppa is a voice heard, even a voice of lamentation, saying, I have piped unto you, but ye have not danced; ye

* The Irish, chiefly non-electors, who resided in the Cowgate, St. Mary's Wynd, &c.

have been as deaf adders, and heard not the voice of the charmer.

32. Verily I have done mighty things for you, and for your children's children; even I, James, the son of Roger, with the strength of my right arm, when there was none to help.

33. ¶ These things, and many more, did he speak unto the people; and his strength waxed greater every day.

34. That it might be fulfilled which was spoken by him whose belly was as a round goblet that wanteth not liquor, even by the prophet Peter, saying,

35. The scum of the land shall prevail over the fatness thereof, and no man shall know in the morning what the evening will bring forth.

CHAPTER III.

1. Now, on the fourth day of the week, which was also the day when their King was born unto them, the people were gathered together at the Mount of Proclamation, a little to the eastward of the Old Synagogue, which the man of small stature hath made new.*

2. Wherein he hath contrived a chamber,† even a place of counsel, where the counsellors are as dumb men, and no voice is ever heard.

3. And the daughters of the city, fair and pleasant to the eye, looked from the windows, and from the house-tops, saying one to another, It is good for us to be here, that we may behold the man James, which is the man of the people.

4. For we of old have known his father Roger, and we cleave unto this his son.

5. But some said, Where is the man John? Why tarry the wheels of his chariot?

Mount of Proclamation—The Hustings.—Old Synagogue—St. Giles.
† A chamber—The intended Hall for the Assembly. ‡ James Ayton, Esq.

6. ¶ And others communed together, saying, What is this which is exalted above the heads of the people, in the likeness of the accursed thing, whereon the thief is hanged by the neck until his breath departeth from him?

7. And lo! there was a voice heard saying aloud,—THIS IS THE ARK OF THE NEW COVENANT.

8. ¶ But while they yet spake, there appeared upon the Ark as it were three hosts, with banners.

9. And there came forth in the midst of them the man Adam,* which judgeth the city, having in his hand a written scroll.

10. And he cried with a loud voice, and said, Hear all ye people, and give ear, for the King hath written unto you, choose now a man meet to speak for you in the Great Assembly, in the place of the man Francis, which is now a judge.

11. If, therefore, there be any among you who knoweth such a man, let him stand forth and declare his knowledge.

12. ¶ Then there came forth a tall man of a comely aspect, which dwelleth in the street of Princes, which had been taken to prison, because he could not give tribute unto the Priests.

13. Also a young man which is a scribe;

14. Of whose chattering there is no end.

15. And they spake to the people of James, the son of Roger, magnifying him above all men, and saying:—

16. Hath he not burst your bonds asunder, and cast your cords from ye?

17. And the men from Miletus shouted aloud, and danced before the Ark, saying,—Thou hast said; verily, he is the man, and wisdom shall die with him.

18. ¶ Then there came forth the fair man† which dealeth in woman's apparel, clothed as one having authority, having round his neck a chain of the most fine gold, weighing seven shekels;

* Adam Duff, Esq. Sheriff-Depute of Edinburgh.

† A fair man—Lord Provost Spittal who was attired in his civic chain and robes.

19. The price* whereof is a burthen to the city unto this day.

20. Whose hat was as the hat of the King's physician;

21. Or as the tower of Lebanon, looking three different ways:

22. And he essayed to speak for the man John, which was the King's councillor; but they shouted against him, and gnashed on him with their teeth, and heard him not.

23. So dealt they also with the man Thomas, which is a jester before the Lord,—whose mirth maketh the heart sad; natheless jesteth he more and more.

24. ¶ Howbeit there straightway came forth another jester, even the man Peter, which was the prophet:

25. And as he girt his loins to speak for him who was the maker of chariots, a murmuring was heard in the Ark,—who is he that we should hearken unto him?

26. Doth knowledge come from the wine-vat, or increase of knowledge from the flesh-pot?

27. Is wisdom born of the abundance of the belly, or the fullness of the womb, hath it at any time brought forth understanding?

28. Have they brought up BEHEMOTH from the waters,—have they taken LEVIATHAN with a hook?

29. Where is the scribe Francis, which came forth of old time upon the Ark, together with the chief of the money changers, and the people were silent before him.—Why is he not here?

30. But many said, he is not here, because he hath fled into a far city, lest peradventure we should again say unto him, get thee up into the Ark, and speak for us unto the people.

31. For he is a man that lacketh valour for the battle, and when aforetime he went up into the Ark, and heard the shouting of the men of Miletus, the form of his countenance was changed, and his heart was disquieted within him.

* The price—An allusion to the city debt.

32. Therefore tarrieth he in the far city, and maketh as though he had been wounded as he fled.

33. ¶ But another said, of a surety he will return to the feast.

34. For he is a man valiant against the wine pot, neither feareth he when the multitude of meat-offerings are arrayed against him.

35. He snuffeth up the savour afar,—he crieth, ha! ha! amidst the noise of the banquet.

36. ¶ But the man Peter lifted up his voice and said,—Men and brethren, behold, I am one of yourselves, *

* * * * * *

XXIX.

SPEECH AT THE OPENING OF PARLIAMENT, AS PROPOSED AT A CABINET COUNCIL ON SUNDAY EVENING.

Upon the 4th of February 1834, King William the Fourth opened the Parliament in person, and in anticipation of the speech delivered on such occasions, the ensuing *jeu d'esprit* was circulated throughout the Parliament House, in guise of a humble broadside, and sold at the low charge of one halfpenny.

By Express.

My Lords and Gentlemen,

In meeting my faithful people for the second time under a reformed constitution, I am happy to congratulate the nation on the advancement of that general prosperity and happiness which prevails throughout the country at large, with the exception of those numerous instances of local distress with which, in common with you, I deeply sympathise. At no period in our history have these peculiar features more remarkably characterised the aspect of public affairs in this empire, and, I doubt not, that with your able and cordial assistance, such a state of matters may, under the blessing of Providence, be rendered permanent.

It is no small addition to my gratification, that Ireland is participating in the same satisfactory results; and, although the flagrant examples of outrage and violence which the late healing measures, of a coercive character, passed in regard to that part of the empire, were intended to effect, have not yet been entirely repressed, I trust that the further concessions to the demands of a lawless population, which will, in due time, be proposed for your consideration, may lead to the complete re-establishment of that tranquillity and union of interests which the separation of the different portions of my dominions is alone calculated to place upon an efficient basis.*

I continue to receive from my allies, and generally from all princes and states, assurances of their unabated desire to maintain and cultivate the relations of peace with Great Britain, and it shall be my constant endeavour to preserve the general tranquillity, so far as consistent with the dignity of my crown, and the happiness and prosperity of my people.

For carrying promptly and firmly into effect these views, a considerable augmentation of the military establishment of the empire is indispensable.

The negociations, with respect to the relations of Holland and Belgium, notwithstanding the untoward events by which they have been accompanied, are in the same state of active forwardness in which they have remained for the last three years. The additional protocols are in preparation.†

With the same pacific objects, and with the view of cementing our commercial relations with the Celestial Empire, I have judged it expedient to accredit, as my representative at that court, with the fullest powers, a distinguished naval officer, well versed in the laws and languages of the eastern world; and whose province it shall be, while maintaining the

* "The public tranquillity has been generally preserved, and the state of all the provinces of Ireland presents, *upon the whole*, a much more favourable appearance than at any period during the last year !!"—*King's Speech in Annual Register, Vol. 76, p. 3.*

† "I have to regret, that a final settlement between Holland and Belgium has not yet been effected, and that the civil war in Portugal still continues."—*Ib.*

honour and purity of our flag, to secure such commercial advantages as may be useful to Europe, and to Great Britain in particular, without any expenditure of that pecuniary equivalent to which she, in common with her allies, has hitherto been exposed. A copy of the treaty will, in due time, be laid before you.

The unfortunate disputes between the Emperor of Russia and the Sublime Porte are in such a progressive state of active adjustment, as not to stand in need of any intercession by force of arms on our part, with the view of effecting any final measure of immediate emergency. I shall not fail, however, to watch over the progress of events in this part of Europe.

The position of the affairs of her Most Catholic Majesty of Spain, as well as those of her Most Faithful Majesty of Portugal, remains unaltered. Although at present obstructed by the intrusion of internal discords, they are anxiously watched over by the paternal care and disinterested solicitude of our most faithful ally, the King of the French. Assisted by that friendly interposition, and active military co-operation which characterise neutrality, and which I have pledged myself in every situation to afford, I doubt not that those safe and expedient views of political aggrandizement which his Majesty and the French people have so long entertained, will be so effectually promoted, as to place that kingdom in the position among European powers to which she aspires, and to which she is so justly entitled.

Gentlemen of the House of Commons,

The estimates of the year will be forthwith laid before you. The revenue of the past year has greatly exceeded those most sanguine expectations, which a firm reliance on the incalculable advantages necessarily attendant on a reform of the representation of the people could have led us to apprehend. Farther supplies are indispensable.

A measure for the alteration of those irksome impositions,

commonly known by the name of the house and window duties, which has been so loudly and so justly demanded, will be laid before you. I regret, however, that from the position of our foreign relations, the unavoidable expense of our armed neutralities by sea and land, the additional subsidies due to the King of the Belgians, and the large grants made by the last Parliament for the restoration of freedom in the West Indies, the relief which you will be enabled to afford, will be more in the form of an efficient and energetic collection of this great source of revenue, than of a diminution of the burdens of the people.

The relief afforded to the agriculturist by the repeal of the duties on tiles, and which gave such universal satisfaction to all classes of my subjects, has been attended with such a diminution of the income of last year, that a new duty on isinglass, madder, and other articles of foreign growth, must be submitted for your consideration. The extensive and active use of vitriolic acid, as shewn by the criminal annals of the country, particularly in the manufacturing districts, and the importance of adhering to the approved principles of a general free trade, will, in all probability, make it advisable to propose the total exemption from duty of that important article of commerce.

My Lords and Gentlemen,

The permanent welfare, and immediate necessary alterations of the state of the United Church of England and Ireland, will occupy a large portion of your attention. Measures of a subversive nature perfectly compatible with the security of that establishment, will, with my fullest approbation, be proposed for your unqualified adoption.

With respect to the Church of Scotland, whose privileges, on my accession to the throne, it was my first act to confirm, by solemn oath, the universal dissatisfaction so loudly expressed, particularly by the *dissenting* population in that part of the kingdom, on account of their exclusion from all share

in the nomination of the clergy, renders it an imperative duty upon me, with the view of extinguishing that clamour, and the evil of patronage generally, to resume directly, as my advisers have lately done indirectly, the uncontrolled right which, as head of the church, I enjoy of appointing all the parochial ministers at pleasure.

In a firm reliance on your implicit adoption, as in last Parliament, of such measures generally as I shall direct to be laid before you, I recommend to you to continue energetically your arduous labours for the preservation of the rights of the Crown, the privileges of both Houses of Parliament as by law unalterably established, and the advancement of the public weal.*

* In the Age Newspaper, February 2, 1834, occurs "a King's speech as it ought to be spoken."—

Feb. A.D. 1834.

"When, in the exercise of those powers which God and the Law had entrusted to me, I called you together in this place, I looked upon you as those to whom the hopes and happiness of the great people which I govern were directed and confided. I think it to be my duty to speak the truth with plainness, though it should sound unpleasantly in your ears. You have neither fulfilled those hopes nor consulted that happiness. And yet you have been fairly tried. You have had no hinderance from me in the performance of that work for which I called you together. You have suffered no impediment to useful councils from any disorderly impatience of my people. And yet, though you have been sitting for eight months, you have done little indeed, that I can hear of, for their benefit, and nothing for my honour. I will not trust myself to speak of your own.

"Since the prorogation of your sitting, some amongst you, whom I had invested with offices of government, have aggravated the proofs of your and their own incapacity, by weak attempts at pirated exculpations.

"Indeed I have been rather hardly used. I was instructed that a new model of representation was necessary,—that the voice of my people might be heard in your assembly. Even against the advice of some who had proved themselves, in arduous times, the faithful servants of this people, I consented to this change. Nor will I yet believe that I was in error. But the voice of my people is not for idle wranglings, wasteful debates, profligate expenses, dishonourable treaties, irreligious practices, and broken vows. Your own consciences will tell you,—and I see by your faces that they do tell you,—how grievously you have done amiss. My conscience is concerned not to suffer a repetition of this evil. I send you to the people for their sentence. I turn to them, for whose good alone I desire, or have the right to govern, to send men to Parliament better fitted by birth and

XXX.

THE KING'S SPEECH FROM THE AGE.

Having given the King's speech, as promulgated in Scotland, it may be not out of place to give the English version, as contained in the Age Newspaper, 2d February 1834. Both fictions are excellent in their way.

On Tuesday next, the KING—GOD bless him!—or, in his name, certain Commissioners, on whom we shall not throw our blessing away, will make a speech to the Congregated Wisdom of Lords and Commons. The KING himself will have nothing to do with the composition of this piece of oratory, and therefore it is now an established rule that it may be dealt with as we please, without any fear of offending his MAJESTY.

We do not pretend to have a seat in the present Cabinet—we never did—and yet we have sometimes got hold of a Cabinet secret or two. We are too prudent to give a hint *how* we obtained our information—but it may be relied on. We feel it just, however, to say that it does not come to us through LORD BROUGHAM—he writes for another newspaper. Whoever our informant is, he has this time supplied us with

education than the greater part of you,—better fitted by energy of mind, and uprightness of purpose, to cause the great changes which have been made work together for the good of the nation, and the increasing prosperity of all my subjects.

"Finally, I do not desire to speak harshly even to you. Some consideration is due to your untoward situations. Many of you have been sent unawares to a task for which you were not fitted,—there is, therefore, much excuse to be made why you have been found unable to perform it. Such may yet do well in a private sphere of life,—only beware of making engagements in future which you are unequal to perform. In mercy to yourselves and your poor families, I will not suffer you any longer to work your own ruin. In mercy to the nation, I tell you to depart. And now, in the hope that my people may henceforth be fully and fairly represented in Parliament, and that peace and happiness, truth and justice, religion and piety, may be established among us, and in humble reliance on the Divine blessing, I do dissolve this Parliament."

a draft of the Speech to be delivered on Tuesday next—and we lose no time in communicating it to our readers. It will run as follows:—

My Lords and Gentlemen.

Every thing, both at home and abroad, is in the most flourishing and prosperous condition. Greatly are we respected by the Foreign Powers: and our domestic state is such as to excite general envy and emulation. I am happy to inform you that the Grey family have divided among them fifteen new places since I last addressed you. It is a sign of the proud state of the kingdom, when we find merit such as theirs so acutely discerned, and so liberally rewarded.*

* In the subjoined brief abstract of the King's Speech for the preceding year, February 5, 1833, the reader will find a notice of the number of the Grey Family that had at that date been provided with places.—

"The King's Speech will be delivered, *perhaps*, by his Majesty on Tuesday.

"His Majesty will have to say, that the West Indies are in a state of anarchy—that all the colonies are distracted—and that a dismemberment of Ireland from the empire is in immediate contemplation.

"His Majesty will have to say, that the finances do not meet the expenditure, and that bankruptcies are increasing in a tenfold ratio. He may congratulate his hearers on the fact that the funds are high, adding as a reason that there is no other way of employing capital.

"His Majesty may report for the amusement of the assembled Houses, that five or six murders a day take place in Ireland; and read over the evidence on the Factory Bill, as a picture of the state of the manufacturers of England. As Mr. John Marshall of Leeds—Mr. John Marshall, of Leeds, the factory-man—Mr. John Marshall of Leeds, who defeated Michael Sadler—is to second the address, he will have an opportunity of communicating to the House some interesting facts within his own cognizance relative to this part of the Speech.

"His Majesty will have to inform the Houses, that the King of the Belgians is on the best terms with the King of France—that Antwerp and all Belgium belong to the French—that Turkey is in the hands of Russia—and that Lord Palmerston has been humbugged by Talleyrand.

"His Majesty will congratulate the Parliament on containing eight O'Connells, one Cobbett, one Walter, one Gully, one Buckingham, one Whittle Harvey, and a fair proportion of blacklegs. He will regret the absence of Serjeant Wilde, Mr. Hunt, Dr. Bowring, Mr. Murphy, Mr. Wakely, Mr. Thos. Duncombe, Mr. Long Wellesley, and a few others, who would have been ornaments to the Senate, but who are now excluded, and some of whom are on board the Calais packet.

My august brother, King Louis Philippe, continues to be seated on that throne which he so worthily won by the aid of the newspaper scribes, whom he is now putting into jail by dozens—and of the respectable canaille, who are starving by thousands. His Most Christian Majesty has added no small quantity to his private wealth by the success of his new *Houses* in the Palais Royal, where the recreation and the population of his country are so carefully attended to—and by his judicious investments in the pawnbroking line. It is a happy thing for a nation to have a Monarch who directs his attention with so much assiduity to what is useful and what is agreeable.

The Queen of Spain is, personally, as well as can be expected; and if Zea Bermudez is turned off, Martinez de la Rosa reigns in his stead. Martinez is the author of a tragedy, in which circumstance he much resembles our esteemed Paymaster of the Forces, Lord John Russell,* and if the tragedy of the Spanish Minister has been performed with applause, while that of the First Father of Reform, and the Second Son of the Duke of Bedford, has been consigned to the care of the trunk-makers and pastry-cooks, it proves that our Minister is better pleased in promoting the useful trades of his country, than in contributing to its frivolous enjoyments. The present state of Spain is such as to give pleasure to all well-regulated minds; for there can be found every possible variety of political opinion in active operation; and it is an agreeable reflection for the friends of Constitutional Monarchies to make, that the party which espouses their cause is so nicely placed, that if it succeeds in overthrowing the Carlists, it must fall beneath the hands of the Jacobins; and if it crushes the Jacobins, it must infallibly yield to the Carlists.

"His Majesty will felicitate the Greys on their having got twenty-seven of their family into place—but his Majesty will not speak the two hours' speech written for him by Lord Brougham.

"Next Sunday we dissect the oration according to old custom."

* His Lordship was the author of a prosaic stupid play on the subject of Don Carlos.

In Portugal, things are wearing a favourable aspect. Urged by the sacred principle of leaving to people the free choice of their Rulers, we have assisted Don Pedro, who is detested by the Portuguese, and are busily endeavouring to drive Don Miguel, for whom they are fighting, out of the country. It is gratifying to reflect, that in this conquest of Portugal, the Portuguese themselves have no share; and even national vanity must be flattered by the fact, that it has principally been achieved by the gentlemen of St. Giles's.—[A loud uproar of applause will arise from the Tail at this honourable mention of their kindred!]—In the meantime, we have so happily protected the interests of our ancient allies, that they are relieved from all care of commerce or agriculture; that their finances are in such a state, as never more to need the attention of a financier; and that the ancient and honourable art of swindling is flourishing among them in the most thriving manner, under the august auspices of Don Pedro.

It will give you much pleasure to hear that another ancient ally has gone to the dogs—I mean to the Russians. You are aware that I allude to Turkey, which now is carved and devilled to the satisfaction of the most exquisite gourmand. We have displayed a noble attitude in this affair. Without doubt we have been put to no *straits*—and if we have been obliged to *levant*, it was only in compliment to the Mediterranean. The result of the enterprise must be consolatory to the people of England, because it secures to our Russian friends the possession of Constantinople, and thereby introduces a new naval power into European politics—to say nothing of the pleasant addition to Russian preponderancy with which it will invest by land that unambitious power.

The friends of free trade will learn with satisfaction that the reciprocity system prevails so happily in Germany, that our manufactures will ere long be wholly excluded from all its States, while we are bound to admit theirs. This is so great a triumph of philanthropy, that I am sure it will make every philanthropic heart to sing for joy. As for the

rest of Europe, the worthy Leopold is still in Brussels; he has not yet formally turned Papist, but he most formally continues to pocket our fifty thousand a-year, and to sell the cabbages of Claremont, like a Royal merchant, as he is. The rest of Europe is going on as usual.

GENTLEMEN OF THE HOUSE OF COMMONS,

The noble animal which has won so many prizes at so many cattle shows in the country, and which rejoices in the name of Althorp, will, with its usual clearness and sagacity, unfold its budget to you, by which you will have the pleasure of seeing that your finances do not decline at a faster rate than a million a-year; and that your masters, the returners of the reformed Parliament, demand the remission of some fifteen millions of taxes. The anti-assessed are clamorous, and the officers of the Customs are not busy. On the whole, yours will be the glorious task of endeavouring to pay money without having it; which is, after all, the main triumph of finance, whether in public or private, and which is very frequently attempted by many of the most distinguished persons in both your Houses.

MY LORDS AND GENTLEMEN,

I do not think I have much more to say. You will have three hundred and sixty new Bills before you; and all the laws of England, great and small, to revise. You will have the pleasure of hearing the woes of Ireland repeated to you in all the tones of all the dialects of Irish for four nights of the week, and then be told, "Och! poor ould Ireland has no fair play towards her in the Sassenagh Parliament—nobody never listens to her by no manner of manes at all; and her Mimbers are never left to spake a word out of their own four bones." You will also hear an immensity of humbug developed to you; and as I know you are waiting for that, I now dismiss you, with a—hem! hem!—no matter what.

And his MAJESTY will lift up his leg, and—depart.

XXXI.

THE KING'S SPEECH.

The Parliament House Version of His Majesty King William's Speech on the opening the Parliament in February 1836, and most persons will admit it is fully as satisfactory as the one actually delivered, and infinitely more amusing.

My Lords and Gentlemen,

I have the satisfaction of informing you, that I continue to receive from Foreign Powers the strongest assurances of their friendly disposition towards this country.

The imposing attitude assumed and maintained by His Most Christian Majesty, the King of the French, in resisting the liquidation of the American claims, as repeatedly sanctioned by treaty, has rendered our pecuniary mediation indispensable. Acting, therefore, in the spirit of our recent relations with France, I lost no time in putting His Most Christian Majesty in possession of the means of satisfying demands, the admitted justice of which seemed foreign to the matter at issue. I am happy to say, that our guarantee for repayment rests not only on the same principles of international faith, which were acted upon in the case of the Austrian and Russian-Dutch Loan, but on the actual transfer of a corresponding proportion of Algerine scrip, calculated at the prices of the DAY.

The same system of active nonintervention, which produced such striking effects in Belgium, still deluges the plains of the Peninsula with the blood of its peaceful inhabitants. Arms, ammunition, and other contrabands of war, continue to be exported as usual, to the great advantage of our commercial relations, and in full accordance with our national faith.

The affairs of Belgium remain in the same state of active forwardness, in which they have continued for the last five years. The protocols, so long in preparation, are still in the same state of quiescent advancement.

The alarming growth of the power of the Autocrat of all the Russias has naturally led to the demonstration, by public meetings throughout the United Kingdom, of approval, on the part of my faithful people, of the loyal conduct of his Polish subjects. The effects on these meetings are already apparent in the return to this country of a large proportion of our British capitalists, and may probably lead to ulterior measures, insuring to Europe the incalculable advantages of a general and interminable war.

I have to congratulate you on the rapid and satisfactory adjustment of the claims of compensation on the part of the masters of Negro apprentices in the West Indies. The salubrity of the climate, in no respect yielding to that of Sierra Leone, has opened a constantly recurring source of patronage in the appointment of a stipendiary magistracy, of which I shall not fail to avail myself, and which must naturally strengthen the hands of my present servants.

Gentlemen of the House of Commons,

I congratulate you on the increase of the Revenue in each quarter of the past year. Notwithstanding this, you must be aware, that as usual, the diminution upon the whole is considerable. This has enabled us to discharge our Americo-French claims, leaving a large available surplus to meet the expense of the necessary increase in the standing army. It is for you to consider, whether, under these circumstances, the Estimates of the current year may not be dispensed with.

While I deeply regret the depressed condition of the agricultural interest, it is gratifying to state, that the flourishing prospects of our Continental resources, will afford to that interest the means of relief to an *incalculable* amount. Any pressure which may still remain, will be effectually relieved by the removal of the duty on hair powder, one of the few remaining poll taxes devised by the wisdom of our ancestors, for the purpose of marking those invidious distinctions of rank, which are now happily at an end. I have no reason to

apprehend, that that important branch of our trade, consisting in the exportation of powdered wigs to the coast of Senegal, will be seriously affected by this measure.

My Lords and Gentlemen,

The state of Ireland, as usual, occupy more than its due share of our attention. In order to remove the difficulties in the collection of tythes, it is proposed, that the fund formerly destined for Protestant purposes shall be put entirely at the disposal of our Catholic Clergy, ample compensation being, at the same time, provided to such of our Protestant Clergy as may survive, out of the voluntary contributions of our loyal Catholic subjects. The fund thus raised, will be placed at the disposal of a Commission, at the head of which will be found a distinguished Member of your House, whose recent progress throughout the kingdom I have contemplated with peculiar complacency.

Should these measures unhappily fail, the end will be obtained by the increased importation of *hemp*, the liberal distribution of which, among our Protestant subjects, will best accord with their own quiet, and the security of that establishment, which I am bound by law to maintain.

The unusual dissatisfaction expressed in Scotland, both by the great and loyal body of the Dissenters, and by those following the Established Form of Worship, in regard to the Commission recently issued, for the adjustment of ecclesiastical affairs in that part of the kingdom, is the best proof of the popularity of that measure. It may be proper for you to consider whether their remuneration, considering the indefinite nature and extent of the inquiry, and the independence of the Commissioners, may not, with advantage, be put upon a footing of progressive increase, proportioned to their diminished labour.

A complete reconstruction and organic change, in the Upper House of Parliament, I have felt to be a measure equally desired by that House itself, and necessary for the

security of the Throne. An elective Aristocracy is the true safeguard of a hereditary Monarchy. In the meantime, until this plan can be carried into full operation, I have called to the Upper House the lady of my first law-officer,* whose vote will be rendered available, under the new form of proxy, by her husband's voice in the Lower House of Parliament, agreeably to the ancient courtesy of England. By this arrangement, any collision between the Houses will be avoided,—conferences in the painted chamber superseded,—and the harmony of all orders in the state restored. I anticipate, with confidence, that this and the other measures, of a final though experimental character, which are in contemplation, will secure to Great Britain the blessings which are the certain result of perpetual innovation,—the peaceful chaos of exhausted anarchy, and the calm repose of everlasting confusion.

* Sir John Campbell's lady, a daughter of Lord Abinger, was created a Peeress, 19th January 1836, in order to propitiate her husband, who, as Attorney-General, conceived he had a claim to the Seals which were given to Sir Charles Christopher Pepys, Knight, who was made Baron Cottenham. The Morning Chronicle remarks, "Lady Campbell's title is taken from the river Eden, in the County of Fife, on the banks of which Sir John Campbell, (son of the Rev. Dr. Campbell of Cupar), was born, and his elder brother, Sir George, has a seat called Edenwood. The dale or strath of the Eden is famous for its beauty and fertility, and is celebrated by J. Johnson, the Scotch Poet, who lived in the reign of Charles the first

Arva inter nemorisque umbras et pascua læta
Lene fluens, vitreis labitur Eden aquis."

This is all very fine and sounds nicely, but, alas! "Edenwood," the "Seat" of the elder brother Sir George,—(a medical gentleman from India, who had submitted to the infliction of Knighthood,)—is a small villa, with a patch of land surrounding it, sufficient perhaps for a cow's grass. It formerly bore the unmusical appellation of "Caldhaughs." The political principles of the late Dr. Campbell were Tory.

XXXII.

ACT OF SEDERUNT ANENT HUGGERS, A FRAGMENT FOUND IN THE LAIGH PARLIAMENT HOUSE.

The feeding of writers, by the Members of the Faculty of Advocates, with the view, in return, of obtaining fees, seems, at a very early date, to have excited the just indignation of the Senators of the College of Justice, and the following Act of Sederunt was framed, to put down so seductive a mode of enlisting the sympathies of the agent through the medium of his stomach. The original, which has been brought to light by the indefatigable exertions of the Record Commission, is in a very decayed condition, and wants a few lines at the end. It is now for the first time printed, but it will be undoubtedly included in the projected abridgement of the Acts of Sederunt.

1584.

Forasmeikle as the courtynge or fleechynge of agentis, be advocatis of our Councell and Sessioun, has groune to ane gryte hycht, quhair throw the saids advocatis makis tinsel of their guid name and reputatioun, and meikle hurte and inconvenientis to suitors in our said Court dothe aryse; for remeid thairof, it is STATUTE and ORDAINED, that na advocatis sall, in tyme to cum, give onie feede, treate, or entertainment of victual, at their awin houses, or in tapsteris, to onie agentis, procutores, wrytteris, or utheris thair clerkis, maire nor foure tymes in ilk yere, utherways the saids feedis sall be halden to have bene given *spe numerandæ pecuniæ*, and the saids advocatis to be reckonit notour Huggeris, and sall dree the painis thairto annexit: Sic as, * * * *

Cetera desunt.

XXXIII.

RES JUDICATA.

(A CASE NOT YET REPORTED.)

TUNE—*Derry Down.*

The case of Southgates and Mandatory against Montgomerie, which the reader will find reported in Dunlop, Murray, and Bell's Court of Session Cases, vol. 15, p. 507, was the foundation of the ensuing *Jeu D'esprit.* The question at issue was whether a Foreign judgment was to be held as *res judicata*, or whether it could be impeached on cause shewn; and after considering the point in cases, and hearing counsel at great length, it was decided that such decree affords only *prima facie* evidence of the truth and justice of the claim, and that it may be impugned on cause shewn.

" With your Lordship's permission, I * now have to state a
" Remarkable question of *Res Judicata;*
" And if more than the usual noise I should make,
" 'Twill be all for the general principle's sake—
Sing down, down, down, derry down.

" The Pursuer (one Southgate) my Lord, d'ye see,
" From America comes with his foreign Decree;
" And thus there arises the *questio vexata,*
" Whether such a Decree is a *Res Judicata?*
Sing down, &c.

" 'Tis a question, my Lord, that is fit to inspire
" A Forsyth or a Baird with a Brodie's own fire;
" For where is the man who could calmly debate a
" Real heart-stirring question of *Res Judicata?*
Sing down, &c.

" 'Tis dreadful to think what the evils might be
" Of refusing effect to our foreign Decree;
" If abroad we might have *executio parata,*
" And yet be told *here* 'twas not *Res Judicata.*
Sing down, &c.

* Douglas Cheape, Esq. Professor of Civil Law in the University of Edinburgh, who opened the case for the pursuers.

" It no doubt is true, the Defender, Montgomerie,
" Says, we got our Decree in a way rather summary;
" But, my Lord, that Decree is *probatio probata*—
" We're entitled to stand on our *Res Judicata*.
Sing down, &c.

" For the doctrine of ERSKINE we care not a straw,
" For ours is a case for a far *higher* Law;
" By the Law both of Rome and of 'Nations and Natur,'
" Ev'ry *Cockney* must see it's a *Res Judicatur*.
Sing down, &c.

" Your Lordship perceives that 'twere quite out of place
" To enter at large on the *facts* of the case;
" Tho' if e'er there were facts which appear'd *pro re nata*,
" 'Tis in this very question of *Res Judicata*.
Sing down, &c.

" But what Court of what Country the Sun ever saw,
" Would look at the Facts in the face of the Law?
" From the banks of the GANGES to those of LA PLATA,
" All facts are alike in a *Res Judicata*.
Sing down, &c.

" What says the great HUBER? What says the great VOET?
" Nay, What says the great, the illustrious GROOT
" *Dum publica fides est intemerata*
" *Ubique servanda est* RES JUDICATA."
Sing down, &c.

Says the opposite Counsel* (we name not his name),
" I fear after this that *my* speech may seem tame;
" But I think I can show, on my Brother's own *data*,
" Though he's got a decree, 'tis not *Res Judicata*."
Sing down, &c.

And then he went on in his own quiet strain,
The facts of this outlandish case to explain;

* John Cowan, Esq. junior counsel for the defender.

He allow'd that his client was " not the potata,"
But still he denied it was *Res Judicata.*
Sing down, &c.

He fairly confess'd there was much to be said
Of the way that poor Southgate by him was misled:
No doubt there was *culpa*—perhaps *culpa lata*—
Yet he scouted the notion of *Res Judicata.*
Sing down, &c.

He candidly own'd he was nothing afraid
Of the learn'd display his Brother had made:
He was welcome to read—if he *could,* to translate a
Whole volume of VOET upon *Res Judicata.*
Sing down, &c.

He thought the case lay in much narrower room
Than his Brother throughout had been pleased to assume;
'Twas a case of *pecunia non numerata,*
Which is very distinct from a *Res Judicata.*
Sing down, &c.

By HUBER or VOET though he might not be back'd,
Yet to *him* it appear'd a plain question of *fact:*
And as well might they sing an Italian *Cantata,*
As argue the case upon *Res Judicata.*
Sing down, &c.

He did not intend just at present to go
Into all the transactions with Hancock & Co;
But certain he was there was no *vox signata*
Whose meaning was plainer than *Res Judicata.*
Sing down, &c.

He might further observe, that, howe'er that might be,
They had always the *other* ST. CROIX Decree;
And perhaps they might move for an order to freight a
Stout ship to go out for *their* RES JUDICATA.
Sing down, &c.

Next the Senior Counsel for Southgate began—*
He affirm'd as a Lawyer, and felt as a Man,
That where'er there clearly was a *lis contestata,*
The judgment which followed was—*Res Judicata.*
Sing down, &c.

" Were proceedings (said he) in each country renew'd,
" And the flying Defender in *this* way pursued,
" We should have *Jurisdictio non explicata,*
" Which can never result from a *Res Judicata.*
Sing down, &c.

" If *this* were the Law, then, of course, every Spring,
" Defenders, like woodcocks, would henceforth take wing,
" And the very worst case might be *vitio purgata,*
" Just by shifting the scene of the *Res Judicata!*
Sing down, &c.

" Suppose the Pursuer, my Lord, to pursue
" Some travelling Merchant—some wandering Jew—
" What avails your Decree, if the whole *Gens barbata*
" Might cry, with one voice, ' Tish not *Reesh Judicata!*'
Sing down, &c.

" But my Friend puts a case—' Supposing,' says he,
" ' That the only point ruled by this foreign decree
" ' Were a point of Scotch Law: must the foreign *Errata*
" ' Be sanction'd, because it is *Res Judicata?*'
Sing down, &c.

" Now, in answer to this, I would ask, in what School
" The single Exception is held as the Rule?
" The Rule is, in fact, *exceptione firmata,*
" A maxim which long has been *Res Judicata.*
Sing down, &c.

" Having stated thus much, I need hardly bestow a
" Single word on the rival Decree of St. Croix:

* John Hope, Esq. Dean of Faculty.

" For a *Res inter alios* at the Equator
" *No* Cockney could hold as a *Res Judicatur*.
Sing down, &c.

" If Titius and Mævius *there* should unite,
" To prove that Sempronius's Sambo was *white*,
" Must Yamba, the Timbuctoo Merchant, abate a
" Single cowrie of price on this *Res Judicata* ?
Sing down, &c.

" Here Yamba, my Lord, might most properly say,
" ' It matters not whether he's black, white, or grey—
" ' This is MERA *potestas, et non prorogata*—
" ' And I don't give one yam for your *Res Judicata* !'
Sing down, &c.

" On the whole, then, my Lord, keeping these things in view,
" And attending throughout to the case of *the Jew*,
" We submit 'twill be *dies carbone notata*,
" When a Judgment like *this* is not *Res Judicata*."
Sing down, &c.

Then Montgomerie's Senior rose in reply—*
That his friend had been able he could not deny:
Yet the case was untouch'd in those deeper *substrata*
Into which one must look for a *Res Judicata*.
Sing down, &c.

'Twas *there* that the thoughtful inquirer must trace
The great leading rules which must govern the Case:
He almost might call them the *Desiderata*,
In treating a question of *Res Judicata*.
Sing down, &c.

The LAW of his Brother he scarcely could meet,
For 'twas Law in the abstract and not the concrete:
His in fact was throughout far too much of a meta-
physician's idea of *Res Judicata*.
Sing down, &c.

* Andrew Rutherfurd, Esq. then Solicitor-General, now Lord Advocate.

He urged the case on the common mistake,
That Decrees were pronounced for *mere principle's* sake:
He really was grieved that he should propagate a
Crude notion like this upon *Res Judicata.*
Sing down, &c.

Of the Law of the Romans he merely would say,
That it now had been stated in quite a new way:
For at least the *Comitia Centuriata*
Always spurn'd at the doctrine of *Res Judicata.*
Sing down, &c.

Of the case of the Negro he could not allow,
For that was a case of *apprenticeship* now:
His friend really made the most strange *postulata,*
In stating this question on *Res Judicata!*
Sing down, &c.

For the case of the Jew he was hardly prepared;
And, on such an occasion, it might have been spared:
He envied not those who could try to create a
Foolish laugh on a subject like *Res Judicata.*
Sing down, &c,

JURISDICTION (he said) was a delicate thing:
And as to Defenders henceforth "taking wing"—
'Twas a question *ambagibus multis nodata:*
But one thing was clear—'twas not *Res Judicata.*
Sing down, &c.

A full week or more in this way had been past,
And even his Lordship was wearied at last:
For they held him *in solidum* 'stead of *pro rata,*
And nothing was heard but their *Res Judicata.*
Sing down, &c.

If you came to the House any morning at Nine,
You would probably find them just crossing the Line:
If you staid on till *Three, (quod averterent fata!)*
There was Echo still answering "*Res Judicata!*"
Sing down, &c.

Every Counsel was dumb—every Clerk in despair—
And THE HAIGS came half-way up the Library stair;
When at length said his Lordship,* "*Biberunt sat prata*—
"Is my Life to be made a mere *Res Judicata*?
Sing down, &c.

"For more than a week has the case stopp'd the Roll,
"Yet a *part* is but heard—which is less than the whole;
"So I'll now put the matter on quite a new basis—
"You have made it so clear, that I must—order CASES."*
Sing down, &c.

XXXIV.

HER MAJESTY'S MOST GRACIOUS SPEECH, DELIVERED AT THE OPENING OF PARLIAMENT ON THE 5TH OF FEBRUARY 1839.

No Royal Speech was issued from the *Parliament* House of the Modern Athenians, upon occasion of the opening of the first Parliament of Queen Victoria, on the 20th Nov. 1837.

My Lords and Gentlemen,

In again meeting my Reformed Parliament, I beg to congratulate you and the Country on the universal Tranquillity and Contentment prevailing throughout the Empire, at Home and Abroad, and particularly in the Kingdom of Ireland, and in the Provinces of Upper and Lower Canada.

I continue to receive from all Foreign Powers the most satisfactory accounts of the Prosperous State of their Dominions, and assurances of their Amicable Feeling towards this Country, on both of which I can place equal reliance. The rightful Heir of the Throne of Caboul, having extinguished the light of his Predecessor, has naturally turned his own eyes to the concentration within narrower limits of my Dominions in the East; and as he is aided in his exertions by the Schah Soojah (who is about to resume his seat on the Guddee of Persia), I doubt not, that, in the course of a few years, these combined Powers will remove all difficulty as

* Lord Jeffrey,—who, after hearing the counsel, pronounced an order for cases.

to the Government of my Possessions in that part of the World.

Europe is in a state of Tranquillity equally exhilarating, and no interference on the part of Great Britain is required for expediting the active measures now in full vigour in Spain and Portugal. Our West Indian Colonies have, by the removal of Slavery, and the consequent establishment of one universal holiday, ceased to be the seat of the labours of Business, and are relieved from the weight of profitable and unprofitable speculation. The repeated outbreaks in Canada have tended to forward in no small degree the extension of that great spirit of Liberalism which it is the main object of my enlightened Government to render universal.

The unexpected advent in this Country of the most august Ex-Autocrat of all the Canadas—an event of an unusually auspicious character—has given universal satisfaction to my Liberal Subjects. It has at the sametime tended in a most remarkable manner to strengthen the hands of my Faithful Servants, whose devotion to me has been such that no idle or fastidious attachment to Principle, Honour, or Consistency, has for a moment led them to contemplate the possibility of deserting their Royal Mistress. Their enlightened Chief has, with the most praiseworthy zeal, and with a total abandonment of the comforts of Domestic Life, devoted himself entirely to personal attendance upon me.* He has never left me for one moment to solitary reflection, or allowed the intrusion into my presence of any of those disloyal subjects who are blind to the spirit of the age, and attached to the antiquated forms of a Constitution, parts of which still present an untoward resistance to the true principles of Utility and overwhelming Reform.

Gentlemen of the House of Commons,

I congratulate you on the state of our Finances, and specially on the felicitous circumstance, that it has been consi-

* Lord Melbourne, whose perpetual dining with her Majesty was the subject of great ridicule.

dered unnecessary to appropriate any surplus of the Revenue towards the diminution of Our Liquidated Capital. I trust that the Estimates which I have ordered to be laid before you will meet with your entire satisfaction; more particularly as, from the efficient state of Our Marine, and the eventual diminution of Our Land Forces on Foreign Service and in Ireland, any farther Expenditure on these heads becomes equally unnecessary and inexpedient. The increase of the Civil Lists has arisen exclusively from the expense of the laborious and unremitted attendance on the Royal Person by the First Lord of the Treasury, and of the entertainments at my Palace at Windsor, which, on behalf of a grateful Nation, I was advised respectfully to tender to the Royal Ex-Dictator* and his accomplished Consort.

My Lords and Gentlemen,

I recommend to your earliest attention the Improvement, by Railroads, Canals, Harbours, and otherwise, of the Kingdom of Ireland. Happily, in that Country, the security of human life is now equal to the Peasant and the PEER.† The Agitator has been followed by the Precursor; and the prospect of the total abolition of Tithes, renders it unnecessary farther to discuss the question relative to the Appropriation of the Surplus Revenues of the Church to secular purposes. It will be more expedient to leave such matters, as well as the subordinate points respecting the stability of the Protestant Church, both in England and in Ireland,—the existence of the Presbyterian form of Church Government in Scotland,—Universal Suffrage,—Vote by Ballot,—Taxes upon Corn, and the like, to remain open questions for discussion amongst the intelligent masses of the People, in full Torchlight Meetings, orderly assembled. I am led to believe, that the stability of my Throne rests entirely upon my continuing to be surrounded by my present Advisers; and as the permanency of their position might be affected by the

* Earl of Durham.

† Referring to the atrocious murder of the Earl of Norbury.

discussion of all or any of these questions in Parliament, according to ancient Custom, it is my will and pleasure, as an independent Sovereign, that, for the present, this embarrassing practice shall be suspended. In this way, the Kingdom will enjoy the security of that happiest repose, which consists partly of ignorance, and partly of disregard of the dangers now threatening a total overthrow of our Institutions, Civil and Sacred.

XXXV.

SONG

ON THE ACQUITTAL OF HENRY, LORD VISCOUNT MELVILLE.

This amusing pasquinade was written on occasion of the dinner given in Edinburgh, by the tory party, upon the acquittal of Lord Viscount Melville from the impeachment brought against him, in 1806. The authorship is disputed, —it has been ascribed to Lord John Townsend, and to the late Lord Chief Commissioner Adam, but erroneously, as we have good reason to believe it came from the pen of a distinguished Barrister, and still more distinguished Judge, whose recent retirement from the bench has been so much regretted by the legal world.

We're met here to swill boys, and gobble down victuals,
In honour of one of the rarest acquittals,
Of one whose services we may prize dearly,
Sae let us get drunk my Boys, hooly and fairly,
Hooly and fairly, Hooly and fairly,
Sae let us get drunk my boys, hooly and fairly.

All Scotland fa' prostrate and worship *Old Harry*,
Wha for twenty lang twelvemonths, a' measures could carry,
Wha play'd the political game late and early,
And hook'd a' our noses here, hooly and fairly,
Hooly and fairly, &c.

A Statesman mair bounteous ne'er shone in a nation,
For every snug place he found some relation,
The place and the man fitted roundly and squarely,
Sae here's long life to him, hooly and fairly,
Hooly and fairly, &c.

The Hopes and Dundasses, ye've here, troth, by dizzins,
Hail brothers, half brothers, and seventeenth cousins,
Weel may ye drink to him, aince ye ga'ed barely,
But we'll a' get places now, hooly and fairly,
Hooly and fairly, &c.

There's Session-Clerks, Sheriffs, Excisemen, and Lordies,
A' may drink Harry while clinking their Geordies,
Tak' aff ye're tippenny, dinna do't sparely,
For ye're now in snug places lads, hooly and fairly,
Hooly and fairly, &c.

He maun hae a lang spoon that sups wi' the deil man,
He maun hae a rough grup that handles an eel man,
A fig for the *Brewer*,* and a your band *Charley*,†
He slipt thro' their fingers lads, hooly and fairly,
Hooly and fairly, &c.‡

* The late Samuel Whitebread, M. P. who, it is almost unnecessary to mention, was an extensive brewer.

† Right Hon. Charles James Fox.

‡ We believe, at the present date (1839,) as political bias against his Lordship has subsided, that all parties consider the decision of the House of Peers as a most just one. That Lord Melville was careless in money matters, is plain enough, and that he acted foolishly in reposing confidence where he ought not, is sufficiently obvious; but that he was guilty of peculation, is altogether unfounded. Had he been tainted with the vice of avarice, would he have died the *poor* man he did? Or would his son ever have parted with his beautiful estate of Duneira to pay the debts of his father?

EDINBURGH:
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NORTH BANK STREET.

THE

COURT OF SESSION

GARLAND.

Part Second.

SIR TOBY.—Dost thou think, because thou art virtuous, there shall be no more cakes and ale?

CLOWN.—Yes, by Saint Anne, and ginger shall be hot i' the mouth too.

TWELFTH NIGHT.

EDINBURGH:
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MDCCCXXXIX.

Fifty Copies Printed.

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COURT OF SESSION GARLAND.

Part Second.

I.

SCENE FROM THE JURY COURT OPERA.

ATTRIBUTED TO

D—— C——, Esq.

SCENE,—Robing Room *after* Trial.

TUNE.—" *The Rogues March.*"

CHIEF COMMISSIONER SINGS,

Oh there's nothing on Earth
That in sorrow or mirth,
So sweetens our mortal existence,
As *thus* to repay,
In a true Judge-like way,
A friend for his friendly assistance.
Indeed 'tis the principal beauty
Of our otherwise comfortless duty,
That we're only to lean
To the side that we mean,
To suffer to pocket the booty.

PITMILLY.

Great Solon of old,
As by Sandford we're told,
Made a law for the ancient Athenians;
That no one in future
Should ever stand neuter,
Tho' it suited his private convenience.
I don't know if it strikes you so,
I never the subject would view so;
But it can't be denied
We should all take a side
When we find it convenient to do so.

GILLIES.

Some have ventured of late
For to in-si-nuate
That justice should be perfect blindness,
Or not condescend to look on a friend
With any particular kindness;
But this all contemptible fudge-is
Invented by Moralist drudges,
The man d'ye see
Who's a good friend to me,
Shall ne'er want a friend 'mong the judges.

CHIEF COMMISSIONER.

They say Politics
Ought never to mix
In judicial determinations,
And that we should be
All perfectly free
From such pitiful considerations:
But really it seems rather grievous
Of our great Polar Star to bereave us,

For take this away,
And tell me, I pray,
What general rule would they leave us.

CHORUS.

Then let us all sing
Long life to our King,
Who gave us our Pensions and Places,
May the Court where we sit,
And all about it,
Be placed on a permanent basis;
May we each be as true to his brother,
As the devil e'er was to his mother,
May we answer the ends
Of ourselves and our friends,
And do credit the one to the other.

II.

PETER'S ADDRESS TO BOBBY.

Rising with sweet obtrusive voice to claim
A bumper to that dear obnoxious name,
I feel as when—here standing as I do,
And all unused to public speaking too;—
That where the soul with retrospective eye
Pierces the gloom of bright futurity,
Or darts its dull anticipative gaze
Up the long vista of departed days,
Some object still uprears its widowed form,
And sheds its own hypothec o'er the storm,
Staunches the echo of the bleeding mind,
Nor leaves the soul, one shred or *snatch* behind.

Bard of the Seasons, hail! I turn to thee
With concupiscent retromingency!
Whether I see thy non-adhesive hip
Witching the world with noblest horsemanship,

Or hear thee in the house with looks severe
Pour amorous nonsense in a Judge's ear,—
And pausing 'mid the dear redundant strife
To look if thy opponent's still in life:
Or sit at Overgroggy's board the while,
And mark thee mutely speak and boldly smile,
Waving thy ruby flag until it fall
Into intoxication's blue canal.

THOMSON, a man than whom,—but to return:
Crown me, ye Nine, with yonder chamber urn;
If here I don't retract without delay
All that I did, or did not, mean to say:
And that there may be no mistake in fact,
This retractation I again retract.—
My feelings overpower me now—but when
The period shall arrive, if ever,—then
My heart is in the bottle there with thee,
And I must wait till it comes back to me.

III.

TURF INTELLIGENCE EXTRAORDINARY.

From the Constitution Newspaper, 28th November 1838, No. 21.

Great interest has been excited among the "knowing ones" in the Parliament House, by the race for the Banff Stakes, which came off yesterday:—

STEWARDS,

JOHN A. MURRAY, ESQ. M.P.
ADAM BLACK, ESQ. Treasurer of the City.
PETER CROOKS, ESQ. W.S.
JUDGE,—DANIEL O'CONNELL, ESQ.

The following state of the entry, accompanied by a few remarks upon the performances and character of each of the

horses, was forwarded to us by a sporting friend, too late for insertion last week.

The Marquis of Breadalbane's bl. colt, Corkscrew, by Vinegar, out of Canvasser's dam. The temper of this horse is very bad, and his breeding inferior. He did a great deal of work with the Fox-hounds in the Perthshire country, and was considerably *Mauled* at the time. However, he afterwards won a king's plate, beating Mr. Hunter's Pollux, Mr. Handyside's Subaltern, Mr. Crawfurd's Declamator, Mr. Reid's Voluntary, and others.

The Duke of Hamilton's b. h. Depute-Advocate, by Sir Michael, out of Mrs. Beaumont, (aged.) This horse is own brother to Turncoat, who has won one or two plates in the West of Scotland, but is not expected to start again. Another of Sir Michael's colts, was named by the Duke of Hamilton, however, for the Lancaster cup last season. Depute-Advocate shows more breeding, and runs truer than any of the stock. He formerly belonged to Sir Robert Peel, and won a king's plate. He then changed hands, and ran second to Mr. Spiers' Dr. Cantwell, for the Moray stakes last autumn; and was also the favourite for the Caithness cup, when it was carried off so unexpectedly by Mr. Thompson's Castor. Since then he has been in training for this race, and has risen considerably in the betting, owing to his appearance on the Waterloo and Hopetoun grounds some months ago.

Sir James Gibson-Craig names Mr. Hunter's brown h. Pollux, own brother to the Sheriff (late Castor); was regularly hunted by the Honourable Baronet for two seasons, both in Selkirkshire and the country round Edinburgh. Has been entered for every king's plate since he came upon the turf, but without success.

Mr. Thomas Thomson names Mr. Maitland's grey horse Bookbinder, by old Dundrennan, out of a Conservative mare, (aged). A fast horse, but considered too heavy for this country. This, at least, is the reason given by the "knowing ones" for his having done nothing as yet. The Conservative stock are not favourites at present.

Mr. Baxter's* chesnut colt, Commissioner, by Speculator, dam unknown, a new horse, of whom great things are expected.

Mr. Earle's b. c. Simperer, got by Presbyter, dam by Highflyer. If this colt has any character, it is solely owing to his having been at one time in the same stud with the excellent horse, Mungo,† by Synopsis. Those who are green 'enough' to back him will be surely mistaken.

Mr. T. F. Kennedy names Mr. Campbell's bay colt "keep-your-temper," by Tory Dick, out of an Ardrossan mare. This horse was beat at Kilmarnock in 1832, by the Dunlop Nondescript, since which he has been no favourite.

To close and name to Messrs. Gibson-Craigs, Wardlaw, and Dalziel, clerks of the course, on or before Tuesday next.

State of the odds yesterday at eleven o'clock,—3 to 1 against Corkscrew; 5 to 1 against Depute-Advocate; 13 to 2 against Pollux; 17 to 1 against Bookbinder; 20 to 1 against Commissioner; 35 to 1 against Simperer, (not taken); 43 to 1 against the Ayrshire Colt.

The following is the result of the running, received by express:—

The Marquis of Breadalbane's Corkscrew, -	1
Sir J. G. Craig's Pollux, - - -	2
The Duke of Hamilton's Depute Advocate,	3
Mr. Earle's Simperer, - - -	4
Mr. Baxter's Commissioner, -	Bolted.

The other two did not start.

Depute-Advocate got away first, and kept the lead in fine style for the first half of the race. He was then headed by Pollux, who looked very like a winner, till young Maule, who is an excellent jockey, brought up Corkscrew, and, by

* Henry Baxter, Esq. of Idvies, advocate, since dead.

† The late Mungo Brown, Esq. advocate, who published a valuable Synopsis of the Decisions of the Court of Session.

dint of whip and spur, succeeded in laying him in front of Sir James Craig's horse, who immediately shewed temper, and gave up the race. The winner was severely punished.

It is supposed that a great deal of money changed hands on the occasion, as the friends of Depute-Advocate, in particular, had backed him to a large amount.

IV.

BOOK OF THE PROCLAMATIONS.

Written by an eminent *civil* lawyer on the controversy relative to the Moderatorship of the General Assembly 1837. Many copies in MS. were circulated in the Parliament-House, but the article is now for the first time printed. Dr. Chalmers was very much amused with it.

CHAPTER I.

1. And it came to pass in those days, that the man Thomas* was very mighty throughout the whole land.

2. For when the enemies of the Temple had raised their hands against it to destroy it for ever, he smote them in the midriff that their breath departed from them.

3. Moreover, he lifted up his voice and said, let us look to the foundations of the temple, and build up its towers, that the strength thereof may be made manifest over the length and the breadth of the land, and that evil men may not trouble it any more.

4. And every just man gave ear unto him: also many who till this time had cared for none of these things.

5. So they brought much tribute, and the work prospered mightily in his hands.

6. And the people said, who is like unto him among all the nations? For his voice is as the voice of a trumpet, and his strength as the strength of a whole host.

* Dr. Chalmers.

7. ¶ But certain of the Pharisees* took counsel together, saying, the name of this man increaseth more and more, while we are become as nothing in the sight of the people.

8. Have not we also built up the Temple, and gathered tribute? And is not every labourer worthy of his own reward?

9. And they murmured exceedingly.

10. ¶ Now while these things were yet doing, a great tumult arose in the city, and the voice of many running to and fro, saying continually who among us shall be the chief of the Sanhedrim.†

11. And behold, there came forth a certain man John,‡ very cunning in the old mysteries: whose eyes were dim with the dust thereof.

12. Who was clothed as it were in parchment, whereon was the likeness of much writing, which none other essayed to read.

13. And he cried with his whole voice, saying, I will be the chief of the Sanhedrim.

14. But many said, go thy ways this once, and at a more convenient season, peradventure, we may yet send for thee; for our travail is not now of any mystery, but of the building of the Temple, and the gathering of the tribute.

15. When have we profited by thee in that matter? Hast thou not rather followed therein thine own devices, and become a stumbling-block to the man Thomas, for that his ways were not as thy ways, nor his testimony as thy testimony?

16. But he answered and said, I will not go: of a surety I am the man, not at this time only, but at all times.

17. If there be any among you who can read the writing which is on my raiment, to him, peradventure, will I give place, but to none else.

18. And they looked upon the writing, and said nothing.

* Whigs. † Moderator of the General Assembly. ‡ Dr. John Lee.

19. ¶ Now there came forth with him, a certain of the Pharisees, whose name was as the name of a tinkling cymbal,* who had also murmured against the man Thomas, toiling continually for his dispeace:

20. Who had exalted himself among the enemies of the Temple, when they were gathered together in a great multitude to do battle against it, even against the tower thereof, which is to the west:†

21. That it might be fulfilled which was spoken by the man Daniel, who was not a prophet, saying, the daughter of Babylon shall prevail over every daughter of the land:

22. Albeit he sat in the Sanhedrim to declare the laws thereof, clothed in wisdom as in a garment, having on his head the likeness of an howlet's nest.

23. But who yet said, I am not a servant of the Sanhedrim: for how can wisdom be bought as with a price?

24. Also a certain of the Priests, whose name was as the name of the dwellers in a far country;‡

25. Very fair and comely to the eye; of whom many said, his ways have been ways of pleasantness even till this time;

26. But some said, hath he not dwelt in Golgotha, which is the place of skulls.§

27. Also the man James,‖ of whom it was written, he planteth a vineyard, and straightway preventeth the increase.

28. Also a certain of the Elders,¶ whose name was as the Pharisees, but who had eschewed their faith from his youth up.

29. Also certain others which had no names.

CHAPTER II.

1. But when the man Thomas looked upon the man John,

* Robert Bell, Esq. Procurator for the Church.
† The Irish Church.
‡ Professor Welsh.
§ In allusion to his taste for phrenology.
‖ Lord Moncrieff.
¶ Robert Whigham, Esq. Advocate.

to behold him, and to behold those which came forth with him, he said, go to, I will make a PROCLAMATION, even a Proclamation to the priests and to the elders, and to the people.

2. So he made a Proclamation, saying, men and brethren, it is not meet for us that this man be the chief of the Sanhedrim.

3. At some time it is meet that he be the chief of the Sanhedrim, even for the writing which is on his raiment, but not at this time.

4. For if, at this time, he be the chief of the Sanhedrim, of a surety he will deliver us into the hands of those from whom there is no help.

5. Who, therefore, shall be the chief of the Sanhedrim?

6. There is a certain man* whose name is as the name of one who knoweth every flower of the field, and every green herb, and every thing which, in its season, putteth forth leaves: He is the elect of the old Rabbis, let him be the chief of the Sanhedrim.

7. This is the sum of the whole matter; first build up the temple, and gather the tribute; and thenceforth it shall no longer be asked throughout the city who is the chief of the Sanhedrim.

8. So dealt he with the man John, shewing that every thing is good in its own season.

9. And as for those which came forth with him, he discoursed with them, one by one, after his own fashion, even after the fashion of him who waiteth not for an answer.

10. To one spoke he of the testimony; saying, this is the pit which ye have digged for me; behold, ye shall perish of the work of your own hands;

11. And to another he spoke in parables; saying, two men journeyed to the same city, the one looking neither to the right hand nor to the left, but the other turning aside continually to the places which were round about:†

* Rev. Dr. Gardiner. † Lord Moncreiff.

12. But to him whose name was as the name of the Pharisees, he said nothing, but let him go.*

13. And all who heard him laid to heart the things which he proclaimed to them, saying, this man hath been as a watchman during the night, and behold, when it is day, he discomfitteth the adversary face to face.

14. So they cleaved unto him more and more.

15. ¶ Then he who sat in the Sanhedrim,† to declare the laws thereof, girt up his loins and said, I will also make a proclamation.

16. So he proclaimed many things of meat-offerings; saying, we have known nothing of them, but have fasted after the manner of the Pharisees; neither at any time have our hearts within us been glad with wine.

17. But the people said, what is this, that we should hearken unto it? He speaketh not of the Temple and the tribute, but of the morning and the evening feast.

18. And many said, why should he strive in any wise with the man Thomas, whose stature is more than the stature of the sons of men?

19. But others said, he striveth not with him; but only nibbleth at the hem of his raiment:

20. So their hearts were filled with laughter, even as at a pleasant saying of the man Peter,‡ when he lifteth up his voice in the Court of the Sanhedrim.

21. ¶ But they which came forth with the man John, and which had no names, when they had heard the proclamation of him who sat in the Sanhedrim, and saw that it proclaimed nothing, arose and said, we also will make a proclamation.

22. And the people said, this is a weariness; nevertheless, let us hearken unto them;

23. But when they heard them, they said, Lo, here is a great mystery;

* Robert Whigham, Esq. Advocate.

† The Procurator for the Church. ‡ Patrick Robertson, Esq. Advocate.

24. For these men have said we are not Pharisees, nor the sons of Pharisees;

25. Yet have they reviled the man Caiphas, for that he is not a Pharisee, and hath lifted up his voice for the Temple and the tribute before all the people.

26. ¶ But while they yet spake, behold, on the face of the proclamation, as it were a written scroll:

27. These were the words which therein were written,

28. Let there be an end of all proclamations, for the man John hath turned and fled; even into the city which is in the kingdom beyond Jordan;

29. There the Pharisees have founded a refuge for him, for that their faith is an abomination unto him, neither have they at any time taken counsel together of the Temple or of the Testimony.

30. And the people said, this is a mystery of mysteries; even above all the mysteries of the man John, and all the writing which is on his raiment.

31. So there was no more any proclamations, and they returned every man to his own house.

V.

FATAL EFFECTS OF GASTRONOMY INSCRIBED TO TRADING LAWYERS.

The two interesting gastronomical anecdotes are worthy of especial notice, as shewing what important consequences may arise from the gratification of one's appetite. Both are taken from that valuable journal entitled the Carlton Chronicle.

I.—TALE OF A WOODCOCK.

How trifling a matter makes or mars a man's fortune,—if a woodcock had not been so delicious, an accomplished Jurisconsult of the North might have been, if not a Colonial Judge, at least a commissioner in some of those innumerable

Whig jobs with which our present rulers at once gull the people and fill the pockets of their adherents. Listen! ye aspirants to office, to what shall be unfolden to you, and learn to "chasten your appetites."

A Whig functionary, of no small influence, who at present represents the Privy Council of Scotland, and the Town Council of Leith, and who is more eminent for a knowledge of Eating than of Erskine, was accustomed, while resident in Modern Athens, now and then to assemble his hangers-on at his hospitable board. There, at stated intervals, assembled the Whig innocents of the Parliament House, who sung pæans in honour of the Magdalene-admiring Premier, the Cupid of Protocols, the "utensil,"—as he has recently styled himself, but who is better known as "the widow's mite,"—and last, though not least, the Scotish Apicius, the giver of the banquet.

Once on a time our *mercurial* friend was invited to dine with the right honourable gentleman, and, with visions of preferment before him, he accepted the invitation. A choice repast awaited him,—such a one as even the *gorge*-ous Warrender might have patronised. The unsophisticated youth beheld, with rapture, the rich viands presented to his astonished gaze, his spirits rose, and so did his appetite—every thing was *couleur de rose.* Two courses were removed,—a third came in, and with it—oh! ye Gods—a plump and juicy woodcock, *trail* and all. What a sight for a philosopher? The dainty was nicely cut up and handed round,—the wily Whigs, who were "up to trap," bowed a negative to the powdered menial who presented the offering,—one or two, less collected than the rest, took small portions of the proffered delicacy, so that by the time it reached our excited Liberal, the best part of it remained, and the *entire* trail! People may talk as they like of the temptations of Hercules, but was he ever tempted with a woodcock and trail? If he could resist such fascination, then, but not till then, might he truly be called a hero. The unfortunate young man—like

many other unfortunate young men—allowed his passions to get the better of his prudence,—he hurried the remains of the bird, toast, trail and all, upon his platter. Unlucky Whigling! the eye of his patron was upon him,—the luscious morsel had, in idea, been devoted to himself,—it was almost in his reach,—he had revelled in thought on the exquisite flavour of the bird, and the ambrosial *goût* of its entrails—he shut his eyes in ecstacy, and opened them in despair—the heavenly vision had passed away!

Was it in mortal man to forgive this? John is a man,—all men are mortal, as we are told at school; *argal*, John is mortal—it follows, as a necessary consequence, that our Right Honourable John, being a *mortal*, was *mortally* offended, and mentally vowed that, as his Liberal friend had disappointed him, he in his turn should be disappointed, and so it was—neither dinner in future, nor place, awaited the unhappy admirer of woodcock. In despair he beheld others,—infinitely his inferiors in talent and character—preferred above him. The "simple" fellow now curses the hour he ever saw a woodcock, or tasted of its trail.

2.—A TALE OF STAFFORD.

"From trifling causes great events arise!" Had the Lord Advocate of Scotland loved turtle less, Stafford would not have had a Conservative representative.

Upon the eventful evening on which a writ for Stafford was to be moved, the whipper-in had collected together the usual set of broomsticks to negative the motion, and as it was not altogether decorous that Lady Stratheden's husband should be present—whose pecuniary dealings with the electors of Dudley, but for the backing of the Radicals, might have produced the strange result of the Attorney-General being ordered to prosecute the Attorney-General—it was resolved that the Right Honourable John Archibald Murray, his Majesty's bill-sticker for Scotland, should take his place.

The illustrious John, who, whatever opinion may exist as to his legal knowledge, has, it is admitted even by Sir George Warrender, no superior as a savant *in re culinaria*, was accordingly duly installed as the Attorney-General's warming-pan; but, as the fatigues of St. Stephen's Chapel are somewhat overpowering, he obtained permission to entertain the inner man by a slight refection, he pledging himself to be ready at the hour of call.

The debate came on, and, strange to say, the discussion was unusually short;—Ministers triumphed in their supposed majority, when lo! and behold! the member for Sheffield turned recreant, and avowed his intention of supporting the motion. Little Cam Hobhouse nearly fainted—Pullet Thomson stood aghast—even Radical Joe lost his impudence. The Hopthumb shrieked "Where is Bottom?" and the *Irish* echo responded "Where is he?" Alas! the intellectual Gastronomer was nowhere to be seen. Nosey Buller supposed he had cut and run, and Bowel Fuxton thought his Lordship was taking a hit at backgammon, until he remembered that it was *not* Sunday.

However, time and tide wait for no man, noses were counted, and his Majesty's Ministers were in a minority of one. A search was instituted for the delinquent, and he was found quietly reposing on a sofa in the coffee-room. Being a scientific man, his lordship had resolved to pass away time by indulging himself in his favourite study, and the evening had pleasantly glided by in the performance of various gastronomical experiments, all of which had been eminently successful. Overcome by his great mental, as well as mensal exertions, the learned lord had entirely forgotten Stafford, and instead of seating himself on the Treasury benches, had quietly resigned himself to the more pleasing embraces of Morpheus.

We recommend the electors of Stafford to give this excel-

Mr. Baxter's* chesnut colt, Commissioner, by Speculator, dam unknown, a new horse, of whom great things are expected.

Mr. Earle's b. c. Simperer, got by Presbyter, dam by Highflyer. If this colt has any character, it is solely owing to his having been at one time in the same stud with the excellent horse, Mungo,† by Synopsis. Those who are green 'enough' to back him will be surely mistaken.

Mr. T. F. Kennedy names Mr. Campbell's bay colt "keep-your-temper," by Tory Dick, out of an Ardrossan mare. This horse was beat at Kilmarnock in 1832, by the Dunlop Nondescript, since which he has been no favourite.

To close and name to Messrs. Gibson-Craigs, Wardlaw, and Dalziel, clerks of the course, on or before Tuesday next.

State of the odds yesterday at eleven o'clock,—3 to 1 against Corkscrew; 5 to 1 against Depute-Advocate; 13 to 2 against Pollux; 17 to 1 against Bookbinder; 20 to 1 against Commissioner; 35 to 1 against Simperer, (not taken); 43 to 1 against the Ayrshire Colt.

The following is the result of the running, received by express:—

The Marquis of Breadalbane's Corkscrew, -	1
Sir J. G. Craig's Pollux, - - -	2
The Duke of Hamilton's Depute Advocate,	3
Mr. Earle's Simperer, - - -	4
Mr. Baxter's Commissioner, -	Bolted.

The other two did not start.

Depute-Advocate got away first, and kept the lead in fine style for the first half of the race. He was then headed by Pollux, who looked very like a winner, till young Maule, who is an excellent jockey, brought up Corkscrew, and, by

* Henry Baxter, Esq. of Idvies, advocate, since dead.

† The late Mungo Brown, Esq. advocate, who published a valuable Synopsis of the Decisions of the Court of Session.

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